



California Regulatory Notice Register

REGISTER 2004, NO. 21-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

MAY 21, 2004

PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

Conflict of Interest Code—Walnut Energy Center Authority—Notice File No. Z04-0511-09 645

TITLE 2. STATE PERSONNEL BOARD

Equal Employment Opportunity and Discrimination Complaint—Notice File No. Z04-0511-12 646

TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Penalty Guidelines—Notice File No. Z04-0507-01 650

TITLE 5. BOARD OF EDUCATION

California English Language Development Test (CELDT)—Notice File No. Z04-0511-07..... 652

TITLE 5. BOARD OF EDUCATION

Defining Persistently Dangerous Public Elementary and Secondary Schools—Notice File No. 04-0511-06 654

TITLE 5. BOARD OF EDUCATION

Mathematics and Reading Professional Development Program—Notice File No. Z04-0511-05 656

TITLE 5. BOARD OF EDUCATION

No Child Left Behind Teacher Requirements—Notice File No. Z04-0511-04 658

TITLE 5. BOARD OF EDUCATION

Withholding Funds—Special Education Mandates—Notice File No. Z04-0511-13 660

TITLE 8. DIVISION OF WORKERS' COMPENSATION

Supplemental Job Displacement Benefit—Notice File No. Z04-0511-02 662

TITLE 8. DIVISION OF WORKERS' COMPENSATION

Workers' Compensation—Collective Bargaining Agreements—Notice File No. Z04-0511-01 666

TITLE 14. FISH AND GAME COMMISSION

Silver King Creek Fishing Regulations—Notice File No. Z04-0511-03..... 670

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Taxable Value of Meals and Lodging—Notice File No. Z04-0510-01 671

(Continued on next page)

***Time-
Dated
Material***

| | |
|--|-----|
| TITLE 22. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT | |
| <i>Changes to the Special Fees—Notice File No. Z04-0511-08</i> | 674 |
| TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT | |
| <i>Predevelopment and California Self Help Housing—Notice File No. Z04-0511-10</i> | 676 |

GENERAL PUBLIC INTEREST

| | |
|---|-----|
| OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD | |
| Notice of Extension of Public Comment Period Deadline for Airborne Contaminants | |
| Originally Noticed in the CRNR dated October 31, 2003 | 678 |

DECISION NOT TO PROCEED

| | |
|--|-----|
| BOARD OF EDUCATION | |
| <i>Regarding Notice File No. Z04-0113-07, Withholding Funds—Special Education Mandates</i> | 679 |

SUMMARY OF REGULATORY ACTIONS

| | |
|--|-----|
| Regulations filed with the Secretary of State | 679 |
| Sections Filed, January 7, 2004 to May 12, 2004..... | 681 |

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order or make changes to current subscriptions, please call (916) 445-5353 or (916) 445-5386. For outside of the Sacramento area, call (800) 963-7860. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Mass Mail/Addressing Services, Sacramento, CA 95814-0212. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

- Walnut Energy Center Authority

A written comment period has been established commencing on **May 21, 2004** and closing on **July 5, 2004**. Written comments should be directed to the Fair Political Practices Commission, Attention Jeanette Turvill, 428 J Street, Suite 620, Sacramento, CA 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than July 5, 2004.

If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the costs has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Section 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revisions and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Jeanette Turvill, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Jeanette Turvill, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE PERSONNEL BOARD

NOTICE OF PROPOSED REVISION OF REGULATIONS

California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board

DATE: May 11, 2004
TO: ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND MEMBERS OF THE GOVERNOR'S CABINET
SUBJECT: PROPOSED AMENDMENT, ADOPTION AND REPEAL OF STATE PERSONNEL BOARD REGULATIONS AFFECTING EQUAL EMPLOYMENT OPPORTUNITY AND DISCRIMINATION COMPLAINT POLICIES AND PROCEDURES

AUTHORITY

Under the authority established in Government Code § 18701, the State Personnel Board (SPB) proposes to amend, adopt, and repeal sections of Title 2, Division 1 of the California Code of Regulations relating to Equal Employment Opportunity and Discrimination as outlined in this notice.

REFERENCE

These regulations implement, interpret, and/or make specific Government Code §§ 11092, 11092.5, 11139.6, 12926, 12926.1, 12940–12951, 18500(c)(5), 18523, 18675, 18952, 18701, 19230–19237, 19240–19244, 19241, 19700–19706, and 19790–19799.

PUBLIC HEARING

Date and Time: July 7, 2004
from 1:00 to 2:00 pm.
Place: 801 Capitol Mall
Sacramento, CA 95814
Purpose: To receive written or oral comments about this action.

WRITTEN PUBLIC COMMENT PERIOD

The written public comment period will close Monday, July 5, 2004, at 5:00 p.m. This comment period allows time for SPB staff to provide copies of any written comments to the five-member State Personnel Board (Board) for their consideration at the time of the hearing. Any person may submit written comments about the proposed regulatory changes at the hearing. To be considered by the Board, the

appropriate person identified below must receive written comments before the close of the forty-five (45) day comment period.

Direct written comments may be submitted to Ted Edwards at the State Personnel Board, 801 Capitol Mall, MS 12, Sacramento, CA 95814, or to tedwards@spb.ca.gov, or fax comments to his attention at (916) 651-9016.

AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/ CONTACT PERSONS

Copies of the express terms of each proposed action, Statement of Reasons, and all of the information upon which each proposal is based are available upon request from SPB's contact person. The Rulemaking Files and related documents are available for review during normal business hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. Additional information or questions regarding the substance of the proposed actions should be directed to Ted Edwards as specified above. Questions regarding the regulatory process in conjunction with these proposals should be directed to Elizabeth Montoya, the backup contact person, at the State Personnel Board, (916) 654-0842 or TDD (916) 653-1498.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

If any substantial and sufficiently related changes are made to the text of either proposal as a result of comments received during the public comment period, SPB will make the full text of the changed regulation(s) available for at least fifteen (15) days before the date the regulation(s) is permanently adopted.

DOCUMENTS RELIED UPON

Americans with Disabilities Act of 1990 (Public Law 101-336)

Title VII of the Civil Rights Act of 1964, 42 USC, Sections 2000e-2 Et seq.

"Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity", Federal Register, October 30, 1997

"Report on the Status of the State Discrimination Complaint Process", prepared by Office of Civil Rights, State Personnel Board, February 2002

Connerly v. State Personnel Bd. (2001) 92 Cal. App. 4th 16, hereafter referred to as *Connerly v. SPB*

Hazelwood School District et al., v. United States, 433 U.S. 299, (1972), hereafter referred to as *Hazelwood v. U.S.*

Johnson v. Santa Clara Transportation Agency, 480 U.S. 616 (1987), hereafter referred to as *Johnson v. Santa Clara*

Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989), hereafter referred to as *Wards Cove v. Atonio*
Wygant v. Jackson Board of Education, 476 U.S. 267 (1986), hereafter referred to as *Wygant v. Jackson*

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Government Code §§ 11092 and 11092.5 require each State agency to maintain statistical tabulations for the racial categories of Filipino and Pacific Islanders.

Government Code § 11139.6 prohibits State and local government agencies from discriminating against or granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, education or contracting.

Government Code §§ 12926 and 12926.1 enumerate the terms and definitions used by the Department of Fair Employment and Housing (DFEH) in connection with unlawful employment and housing practices, which may be broader than those required by the federal Americans with Disabilities Act.

Government Code §§ 12940 Et seq. prohibits unlawful employment practices, unless based upon a bonafide occupational qualification, or except where based upon applicable security regulations established by the United States or the State of California. These provisions prohibit discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of any person in connection with employment or employment privileges such as training and compensation.

Government Code § 18500(c)(5) provides that the State civil service personnel system shall treat applicants and employees equitably and without regard to political affiliation, race, color, sex, religious creed, national origin, ancestry, marital status, age, sexual orientation, disability, political or religious opinion or non job-related factors.

Government Code § 18523 defines class as a group of positions sufficiently similar with respect to duties and responsibilities that the same title may be used for them, the same test of fitness may be used, and the same minimum qualifications may be required and the same schedule of compensation may be applied.

Government Code § 18675 authorizes SPB to investigate or hear a complaint of discrimination, harassment, or retaliation of a State employee, and, upon consideration of applicable current laws and decisions, arrive at a decision.

Government Code § 18952 specifies that an employee may appeal to the board in writing if she/he feels aggrieved at any action by a superior or fellow

employee that discouraged, or in any manner hindered or prevented him/her from taking an examination. SPB is authorized to investigate such an appeal and take action as necessary.

Government Code § 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the Civil Service Act (Government Code § 18500 et seq.).

Government Code § 19230 Et seq. enumerates the State's policies and requirements related to the employment of qualified individuals with a disability and provides reasonable accommodation to known physical or mental limitations. Government Code § 19231 defines the meaning of terms used in connection with these policies. Government Code § 19232 requires State agencies to establish an affirmative action program to ensure individuals with a disability access to positions on an equal and competitive basis with the general population, which includes setting goals and timetables. Government Code § 19233 provides the Board authority to outline specific actions to improve representation of persons with disability, to ensure equal and fair employment practices, and to survey by job category and salary so as to establish guidelines and goals and timetables.

Government Code §§ 19240 Et seq. provides SPB responsibility for the Limited Examination and Appointment Program (LEAP), an alternative examination and appointment method that facilitates the hire of persons with disabilities in State civil service positions where accommodations can be provided and prohibitive physical requirements are not mandated. These sections establish the parameters and requirements of the LEAP.

Government Code § 19241 authorizes the Board to establish rules and procedures for the implementation of the Limited Examination and Employment Program (LEAP), including the establishment of eligibility criteria for participation, special job classifications, examination techniques, and appointment and appeals procedures.

Government Code §§ 19700 Et seq. prohibits discrimination in State civil service of any person because of sex, race, religious creed, color, national origin, ancestry, marital status, physical or mental disability, or age, and the retaliation of any person who has opposed any unlawful employment practice. Discrimination includes harassment. These provisions specify that an individual may submit a discrimination complaint with the appointing authority or, in accordance with Board rules, with the Board itself, and authorizes SPB to investigate and conduct hearings concerning such complaints and take action upon a finding of discrimination. In addition, these provisions

require that hiring and promotions in the civil service conform to the Federal Civil Rights Act of 1964. Title VII of the Act prohibits practices, procedures or policies that have an adverse impact on employees or applicants for employment unless they are justified by business necessity. It also prescribes practices which “tend to deprive” a person of equal employment opportunity, such as preferential treatment for one group of persons over another.

Government Code §§ 19790 Et seq. enumerates the requirements of the State civil service Affirmative Action (AA) Program and delineates the SPB’s responsibility for providing statewide advocacy, coordination, enforcement and monitoring of these programs, including the development, implementation, and maintenance of AA and equal employment opportunity guidelines, and the maintenance of statistical information to determine the underutilization of minorities and women. These provisions require each agency to develop an AA plan that includes identification of areas of underutilization for protected groups, an equal employment opportunity analysis, and an explanation of and specific actions for improving the representation of protected groups. Lastly, these provisions require State agencies to establish an effective AA program, including the appointment an affirmative action officer to develop, implement, coordinate, and monitor this program.

The U.S. Supreme Court has affirmed in several cases that a public employer may employ affirmative action plans, which provide for race or gender preferences where essential to remedy the past effects of discriminatory employment practices, *Johnson v. Santa Clara* and *Wygant v. Jackson*. Such actions for public employers, such as the State of California, must meet requirements of both Title VII of the Civil Rights Act of 1964 and the Equal Protection clause of the 14th Amendment to the United State Constitution.

The U.S. Supreme Court held in *Hazelwood v. U.S.* [433 U.S. 299 (1977)] that gross statistical disparities between the composition of the employer’s work force and that of the relevant labor force constitutes a prima facie case of a pattern or practice of employment discrimination under Title VII of the Civil Rights Act of 1964. The court held that once a prima facie case was established by statistical work force disparities, the burden shifts to the employer to articulate some legitimate, nondiscriminatory reason for its action. In addition, *Wards v. Atonio*, 490 U.S. 642 (1989) emphasizes the importance of making relevant labor force comparison and developing appropriate statistical evidence to establish a prima facie case of discrimination.

In 2001, the California Third District Court of Appeal issued a published decision in *Connerly v. SPB*, which concluded that establishing employment goals based on race or gender violates principles of equal protection as well as the California Constitution as amended by Proposition 209. The court, however, upheld those statutory provisions that require the collection of statistical data and reporting of underutilization by racial or gender categories in State agencies to monitor employment practices and, under limited circumstances, upheld the provision permitting the SPB to adjust layoff based on a finding of past discrimination.

The proposed regulatory changes respond to: 1) the findings of court decisions and enacted legislation concerning equal employment opportunity programs for State agencies; and 2) the need to improve the discrimination complaint and reasonable accommodation processes. In addition, new regulation is being proposed to establish a Coordinator for each State agency to facilitate the use of LEAP and the hire of persons with disabilities in civil service. The following summarizes the proposed changes:

CCR § 10. Disability Terms—Proposed Amendment to the Regulation

In 2000, AB 2222 (Kuehl/Chapter 1049, Statutes of 2000) amended the State Fair Employment and Housing Act (FEHA) to expand the definition of a person with a disability beyond the definition provided in the federal Americans with Disabilities Act (ADA) for non-discrimination law enforcement purposes. Under FEHA, a person must have an impairment that “limits” a major life activity, rather than one that “substantially limits” as required under the ADA. In addition, under FEHA, disability determinations are made without regard to mitigating measures, such as glasses, prosthetic devices, and medication. Under the ADA, determinations are made with consideration of mitigating measures. In addition, FEHA specifies that an individual with certain medical conditions is disabled. Accordingly, it is necessary for SPB to adopt the new more liberal definition for use in collecting statistical information on State employees, setting employment goals, and adjudicating discrimination complaints and reasonable accommodation appeals. The proposed revised Regulation 10 adopts the FEHA’s definitions of disability terms.

CCR § 547.58—Proposed New LEAP Regulation

The Limited Examination and Appointment Program (LEAP) became a permanent special State program to facilitate the employment of persons with disabilities in 1989. A new CCR § 547.58 is proposed to add the requirement that each State department have

a LEAP Coordinator to promote use of the program and assist managers and LEAP candidates throughout the hiring and evaluation processes to resolve any problems that may occur. This is important to help ensure that persons with disabilities receive equal employment opportunity within each department.

Proposed Regulations Regarding the State's Discrimination Complaint and Reasonable Accommodation Processes

The following proposed regulation changes are discussed below as a group because they are the result of a common effort to improve State equal employment opportunity and non-discrimination processes:

CCR §§ 53.2, 54, 54.2, 547, and 547.1—Proposed Repeal of Current Regulations on State Discrimination Complaint and Reasonable Accommodation Procedures and Corresponding Procedures for Appeals to the SPB;

CCR §§ 547.807–547.815—Proposed New Regulations on State Discrimination Complaint Processes and Appeal Procedures; and

CCR §§ 547.816–547.8191—Proposed New Regulations Regarding State Reasonable Accommodation Processes and Appeal Procedures

In March 2002, following completion of a comprehensive study to evaluate the status of the State's discrimination complaint process, the SPB held a public hearing to consider recommendations for improving the process. Many of the recommendations that were adopted involved amending existing regulations and promulgating new regulations to clarify and expand departmental discrimination complaint and reasonable accommodation policies and procedures, and SPB appeal requirements. To implement these recommendations, the SPB proposes a new Article 3, Discrimination Complaint Process, CCR §§ 547.807–547.815, and a new Article 4, Reasonable Accommodation, CCR §§ 547.816–547.8191. It is also proposed that current SPB CCR §§ 53.2, 54, 54.2, 547 and 547.1 be repealed, since the proposed new regulations incorporate and expand upon their provisions.

CCR §§ 547.79–547.803—Proposed New and Amended Regulations on Equal Employment Opportunity Policy and the Workforce Analysis Process

In 2001, the California Court of Appeal in *Connerly v. SPB* held that statutes requiring State departments to set employment goals based on race or sex were in violation of the California Constitution, as amended by Proposition 209. Subsequently, the SPB eliminated the requirements for annually setting employment goals for racial/ethnic groups and women and revised the annual State workforce analysis process. The focus

of the revised process is on determining the extent to which State departments are providing equal employment opportunity and have non-discriminatory employment practices. This involves identifying underutilization of racial/ethnic and gender groups in occupational categories as an indication of possible employment discrimination, conducting follow up analysis to determine the cause of the underutilization, and developing an action plan to correct or eliminate any non job-related employment barriers. The new and revised regulations are proposed to formally define the State civil service equal employment opportunity policy and terminology, and to provide policy and procedural guidance to State departments for completing the annual workforce analysis process.

CCR §§ 547.804–547.806—Proposed New Regulations for Establishing Employment Goals for Persons with Disabilities and Updating Disability Information for State Employees

Employment goals for persons with disabilities are not affected by the *Connerly v. SPB* decision and continue to be mandated by Government Code § 19232. In 1995, the Board held a public hearing to consider proposed methodology for establishing employment goals for persons with disabilities. After considering all input, the Board approved staff recommendations, and guidelines were issued to departments for annually reviewing their representation of employees with disabilities and establishing a departmental employment goal. Currently, these guidelines are included as an appendix at the back of SPB's *Interim Guidelines for Conducting the Annual State Workforce Analysis* (Interim Guidelines). The proposed new Article 2, Employment Goals for Persons with Disabilities, CCR §§ 547.804–547.806 will separate procedural guidelines for setting employment goals for persons with disabilities from the other annual workforce analysis guidelines for racial/ethnic and gender groups to better recognize significant differences in analytical methodology, and to give greater recognition and visibility to the requirements for providing equal employment opportunity for persons with disabilities in the State civil service.

IMPACT ON SMALL BUSINESSES

The proposed regulations will not impact small businesses. The proposed actions would affect only State and applicable local agencies and their employees.

LOCAL MANDATE

The proposal has no mandate upon local agencies or school districts and therefore requires no reimbursement pursuant to Government Code § 17561.

COST ESTIMATES OF PROPOSED ACTION

Costs or Saving to State Agencies

Any additional cost that the proposed amendment may cause for State and applicable local agencies will be negligible.

Impact on Housing Costs

The proposal will not affect housing costs.

Costs or Savings in Federal Funding to the State

No impact.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

The proposal does not impose nondiscretionary costs or savings on local agencies.

Cost Impact on Representative Private Persons or Businesses

SPB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed actions.

ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESS

SPB has determined that the proposed actions will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT REGARDING THE EFFECT ON JOBS OR BUSINESSES

The proposed actions will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES STATEMENT

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FINAL STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons for the proposed actions may be obtained from the contact person or the backup contact person.

ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON THE STATE PERSONNEL BOARD WEBSITE

The text of each proposed regulation in underline and strikeout, as well as, the Notice of Proposed Amendment of Regulations, and Statement of Reasons

and if prepared and when available for review, the Final Statement of Reasons, will be on SPB's Web site at www.spb.ca.gov.

TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

NOTICE OF PROPOSED ADOPTION OF REGULATION

The Department of Alcoholic Beverage Control ("Department") proposes to adopt the emergency regulation described below after considering all comments, objections, and recommendations regarding the proposed action. Pursuant to Government Code Section 11346.1, the Department has added Section 144 "Penalty Guidelines" to Title 4, Division 1, of the California Code of Regulations. The proposed addition of Section 144 is pursuant to the California Constitution, Article XX Section 22, Business and Professions Code Sections 23001 and 25750, and Government Code Section 11340, et. seq., and specifically, but not limited to, Sections 11340.5, 11342.600 and 11425.50; *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557; and *Vicary v. ABC, AB-7606a* (Nov. 12, 2003).

PUBLIC HEARINGS

Pursuant to Government Code § 11346.8, any interested person, or his or her duly authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action in the Informative Digest at hearings to be held on **July 12, 2004**, commencing at **10:00 a.m.** at the following address:

**Ronald Reagan State Building
300 South Spring Street—Auditorium
Los Angeles, CA 90013**

AND

July 13, 2004 commencing at **10:00 a.m.** at the following address:

**EDD Building
722 Capitol Mall—Auditorium
Sacramento, CA 95814**

(* The Department reserves the right to impose reasonable limitations on oral presentations—Government Code § 11346.8)

WRITTEN COMMENT PERIOD

Pursuant to Government Code § 11346.5, any interested person may present statements, arguments, or contentions relating to the proposal, in writing, by 5:00 p.m., on July 13, 2004. The Department will consider only those comments received at the Department office by that time. Submit comments to any of the following persons:

Nicholas R. Loehr, Chief Counsel (Acting)
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

Dennis Clear, Legislative Officer
Department of Alcoholic Beverage Control
3927 Lennane Drive, Suite 100
Sacramento, CA 95834

Theresa Laster, Legal Analyst
Department of Alcoholic Beverage Control
3927 Lennane Dr., Ste. 100
Sacramento, CA 95834

AUTHORITY AND REFERENCE CITATIONS

The Department adds Section 144 under the authority granted to it in California Constitution, Article XX, Section 22, Business and Professions Code Sections 23001 and 25750, and Government Code Sections 11340.5, 11342.600 and 11425.50; the California Supreme Court's holding in *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557; and the ABC Appeals Board's ruling in *Vicary v. ABC*, AB-7606a (Nov. 12, 2003).

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

California Code of Regulations, Title 4, Division 1, Section 144, "Penalty Guidelines."

It is the policy of this Department to impose administrative, non-punitive penalties in a consistent and uniform manner with the goal of encouraging and reinforcing voluntary compliance with the law.

The California Constitution authorizes the Department, in its discretion, to suspend or revoke any license to sell alcoholic beverages if it shall determine for good cause that the continuance of such license would be contrary to the public welfare or morals. The Department may use a range of progressive and proportional penalties. This range will typically extend from Letters of Warning to Revocation. These guidelines contain a schedule of penalties that the Department usually imposes for the first offense of the law listed (except as otherwise indicated). These guidelines are not intended to be an exhaustive, comprehensive or complete list of all bases upon which disciplinary action may be taken against a license or licensee; nor are these guidelines intended to preclude, prevent, or impede the seeking, recommendation, or imposition of discipline greater than or less than those listed herein, in the proper exercise of the Department's discretion.

Higher or lower penalties from this schedule may be recommended based on the facts of individual cases where generally supported by aggravating or mitigating circumstances.

1. Add Section 144.

Section 144 incorporates by reference the Department's "Penalty Guidelines" dated December 17, 2003. The Department's prior "Penalty Policy Guidelines" were found to be an underground regulation in violation of the Administrative Procedures Act by the ABC Appeals Board. This proposes to codify the Department's penalty policy, procedures and guidelines to insure that disciplinary proceedings are conducted in a fair, reasoned and consistent manner, and in a manner authorized by law.

Authority and Reference Citations

Section 144:

The Department of Alcoholic Beverage Control proposes to add Section 144 pursuant to and to implement, interpret, and make specific California Constitution, Article XX, Section 22, Business and Professions Code Sections 23001 and 25750, and Government Code Sections 11340.5, 11342.600 and 11425.50; *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557; and *Vicary v. ABC*, AB-7606a (Nov. 12, 2003).

DISCLOSURES REGARDING THE PROPOSED ACTION

Fiscal Impact Estimates

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Cost to Any Local Agency or School District for Which Government Code § 17561 Requires Reimbursement: None.

Local Mandate Statement

Addition of the above-mentioned section does not impose a mandate on local agencies.

Business Impact Statement

The Department of Alcoholic Beverage Control has determined that the proposed regulatory action would have no significant, statewide adverse economic impact directly affecting California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses

The Department of Alcoholic Beverage Control finds that the proposed regulatory action will not have any impact on the creation or elimination of jobs or businesses or the expansion of businesses in the State of California.

Statement of Potential Cost Impact on Private Persons or Entities

The Department of Alcoholic Beverage Control is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Statement of Effect on Small Businesses

The Department of Alcoholic Beverage Control finds that the proposed regulatory action will have no effect on small businesses since it merely codifies existing disciplinary procedures.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative it may have considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements, comments, or arguments with respect to alternatives to the proposed regulation at the scheduled hearings or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to any of the following persons:

Nicholas R. Loehr, Chief Counsel (Acting)
Department of Alcoholic Beverage Control
3927 Lennane Dr., Ste. 100
Sacramento, CA 95834

Dennis Clear, Legislative Officer
Department of Alcoholic Beverage Control
3927 Lennane Drive, Ste. 100
Sacramento, CA 95834

Theresa Laster, Legal Analyst
Department of Alcoholic Beverage Control
3927 Lennane Dr., Ste. 100
Sacramento, CA 95834

Questions on the substance of the proposed regulation may be directed to any of the persons listed above.

Please direct requests for copies of the proposed text (the "express terms") of the regulation, statement of reasons, or any other information concerning the rulemaking file to Ms. Theresa Laster at the above address.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

After holding the hearings and considering all timely and relevant comments received, the Department upon its own motion or at the instance of any interested person may adopt the proposal substantially as presented. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of Theresa Laster at the address indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. The aforementioned items are also available for review on the Department website at <http://abc.ca.gov>. (Located under 'points of interest.')

Notice is also given that each proposal should be reviewed in terms of the statutory requirements for necessity, clarity, consistency, authority, reference, and non-duplication.

AVAILABILITY OF THE FINAL
STATEMENT OF REASONS

Upon completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Theresa Laster at the above address.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

**California English Language Development Test
(CELDT)**

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **8:00 a.m. on July 6, 2004**, at 1430 N Street, Room 1801, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant

to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on July 6, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Email: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Sections 306, 313, 37200, 48985, 49068, 52164.1, 60810, 60812, Education Code; 34 CFR 300.138(b)(1)(2).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed amendments to the regulations are intended to clarify what is required of school districts and to clarify terms in order to administer the assessment of English language proficiency required by Education Code sections 313 and 60810, et seq. In existing regulations, the English language proficiency assessment is the California English Language Development Test (CELDT). The proposed amendments are necessary for the continuing successful administration of the CELDT program and to bring the CELDT into compliance with federal Title III No Child Left Behind (NCLB) accountability requirements.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because they only apply to Local Educational Agencies.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Jeanette Ganahl, Education Program Consultant
Standards and Assessment Division
California Department of Education
1430 N Street, 5th Floor
E-mail: jganahl@cde.ca.gov
Sacramento, CA 95814
Telephone: (916) 445-9441

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative

action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/re/lr/rr/>

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting

Jeanette Ganahl, Standards and Assessment Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 445-9441; fax, (916) 319-0967. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Defining Persistently Dangerous Public Elementary and Secondary Schools

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **9:00 a.m. on July 6, 2004**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on July 6, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Email: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Sections 48900.3, 48915(a)(1), 48915(a)(4), 48915 (c)(1), 48915 (c)(2), 48915 (c)(3), 48915 (c)(4), and 48915 (c)(5), Education Code;

Sections 11063–11058, Health and Safety Code; Sections 71, 211, 212, 240, 242, 243, 243(f)(4), 243.4, 261, 2669c), 286, 288, 288(a), 289, 422.6, 422.7, 422.75, 518, and 519, Penal Code; Public Law 107–110, Title IX, Part E, Subpart 2, Section 9532; 18 USC Section 921; 20 USC Section 7911.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Unsafe School Choice Option (USCO) provisions in the federal No Child Left Behind Act of 2001 require that each State receiving funds under this Act must establish and implement a statewide policy that allows students attending a persistently dangerous public elementary school or secondary school to attend a safe public elementary school or secondary school within the local educational agency (LEA), including a public charter school. USCO also requires that the State implement a method of identifying such persistently dangerous schools.

The California State Board of Education has adopted a policy to be used in designating persistently dangerous public schools. Such designations will be based on student expulsion information, as specified in the policy, and incidents of non-student firearm violations. Guidance published by the United States Department of Education with regard to the USCO provisions require States to identify persistently dangerous schools in sufficient time to allow an affected local educational agency to offer the required transfer option to students at least 14 days before the start of the school year, and before the start of each school annually thereafter.

The purpose of these regulations is to clarify and provide guidance on the implementation of the statewide policy definition for designating persistently dangerous schools and to establish related data reporting requirements for public elementary and secondary schools, including charter schools.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost

impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: There is no effect on small businesses because the proposal pertains only to schools. No requirements are placed on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Jerry Hardenburg, Consultant
California Department of Education
Safe and Healthy Kids Program Office
1430 N Street, 6th Floor
Sacramento, CA 95814
Telephone: (916) 319-0920
E-mail: jhardenb@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and

the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Jerry Hardenburg, Safe and Healthy Kids Program Office, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 319-0920; fax, (916) 319-0218. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Mathematics and Reading Professional Development Program

The State Board of Education (State Board) proposes to adopt the regulations described below

after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **10:00 a.m. on July 6, 2004**, at 1430 N Street, Room 4101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on July 6, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Email: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 33031 and 99326, Education Code.

Reference: Sections 99233, 99234(g), and 99237(b), Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill 466 (Chapter 737, Statutes of 2001), established the Mathematics and Reading Professional Development Program. The Program greatly assists efforts to increase academic performance in California schools by enabling teachers, instructional aides, and paraprofessionals to participate in high-quality professional development activities in mathematics and reading/language arts over an extended time period.

In addition to addressing the items specifically required by *Education Code* Section 99236, the proposed regulations clarify the intent of the legisla-

tion and limit program funding reimbursement to providing professional development to teachers eligible to receive instruction via the Mathematics and Reading Professional Development Program as set forth in *Education Code* Section 99233 and Title 5, *California Code of Regulations*, Section 11981, to one instructional materials program per subject area (reading/language arts and mathematics).

Beginning in the 2004–05 fiscal year, such funding shall be limited to providing professional development to paraprofessionals and instructional aides eligible to receive instruction via the Mathematics and Reading Professional Development Program as set forth in *Education Code* Section 99233, to one instructional materials program per subject area (reading/language arts and mathematics).

The regulations will ensure that program funding is allocated to participating local educational agencies on an equal basis. These regulations will also assist efforts to increase the number of California teachers, paraprofessionals, and instructional aides who may receive high-quality professional development in reading/language arts and mathematics.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: There is no effect on small businesses because the proposal pertains only to schools. No requirements are placed on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Kathie Scott, Education Program Consultant
California Department of Education
Professional Development and
Curriculum Support Division
1430 N Street, 4th Floor
Sacramento, CA 95814
Telephone: (916) 323-6440
E-mail: kscott@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board

adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Kathie Scott, Professional Development and Curriculum Support Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 323-6440; fax, (916) 323-2806. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

No Child Left Behind Teacher Requirements

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **1:00 p.m. on July 6, 2004**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The

Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on July 6, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Email: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 12201, Education Code.
Reference: Section 44275.4, Education Code; 20 USC 7801(23), 20 USC 6319(a); Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Federal law under No Child Left Behind Act (NCLB) requires that all teachers of core academic subjects meet the federal definition of "highly qualified teacher" no later than the end of the 2005–2006 school year. Schools that receive Title I funds are currently required to hire only teachers that meet the federal definition of "highly qualified teacher." Core academic subjects include English, reading/language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography (NCLB Section 9101).

While federal law defines the requirements for "highly qualified teacher," some details regarding how the definition is applied in each State must also be determined. Existing State law and these proposed regulations are intended to provide the detail necessary to meet the NCLB Teacher Requirements in California.

Specifically, these proposed Title 5 regulations amend the existing regulations related to the No Child Left Behind Teacher Requirements and address new guidance received in the January 16, 2004 U.S. Department of Education Non-Regulatory Guidance

for the NCLB Title II, Part A, Improving Teacher Quality State Grants related to the NCLB Teacher Requirements that identify the “rigorous state test” that federal law requires each new to the profession elementary teacher pass, and outlines the “high objective uniform state standard of evaluation” that can be used to qualify “not new to the profession” teachers as “highly qualified.” The proposed regulations also define several key phrases to assist school districts in complying with the federal law.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed regulations have no effect on small businesses because they do not relate to small business practices or to interactions between school districts and small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to

the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Sandra Frank, Consultant
Curriculum Leadership Unit
California Department of Education
1430 N Street
E-mail: sfrank@cde.ca.gov
Sacramento, CA 95814
Telephone: (916) 323-6244

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/re/lr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Sandra Frank, Curriculum Leadership Unit, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 323-6244; fax, (916) 323-2807. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Withholding Funds—Special Education Mandates

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **8:00 a.m. on July 6, 2004**, at 1430 N Street, Room 2102, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on July 6, 2004**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board

Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Email: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Section 56845, Education Code; 20 USC Section 1413; 34 CFR 300.197.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Special Education Division on behalf of the Superintendent of Public Instruction proposes that the Board adopt regulation Sections 3088.1 and 3088.2 regarding sanctions for withholding funds to enforce special education compliance authorized by *Education Code* Section 33031. (Reference: 20 USC Section 1413, 34 CFR 300.197 and *Education Code* Section 56845 (a) and (b)).

The purpose for adding Sections 3088.1 and 3088.2 to Title 5, California Code of Regulations, is to establish specific timelines and notice requirements for conducting a hearing which are prerequisites in both Federal and State law prior to withholding funds from local education agencies for noncompliance with special education law.

20 USC Section 1413 requires, among other things, that state education agencies monitor local education agencies to assure compliance with special education laws. 34 CFR 300.197 and *Education Code* Section 56845 (a) and (b) authorize the Superintendent to withhold state and federal funds from a local education agency after reasonable notice and opportunity for a hearing if the superintendent finds the agency out of compliance with special education laws.

Section 3088.1 specifies the required contents of a hearing notice and the timelines for conducting the hearing prior to making a decision whether to withhold funds. Section 3088.2 specifies when funds shall be withheld if the hearing officer concludes that the local education agency has not presented sufficient proof of compliance or mitigating circumstances precluding compliance. This section also stipulates that the superintendent may apportion state and federal funds previously withheld from the local education agency when it is determined that substantial progress toward compliance with special education laws has been made.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts:
None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Effect on small businesses: There is no effect on small businesses because any funds withheld for non-compliance with special education laws are primarily spent on services and not specific equipment, materials and supplies.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Dennis Kelleher, Ed.D., Staff Liaison Consultant
California State Advisory Commission
on Special Education

California Department of Education
1430 N Street, Room 2401
E-mail: dkellehe@cde.ca.gov
Sacramento, CA 95814
Telephone: (916) 327-0842

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final

Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990*, any individual with a disability who requires reasonable accommodation to attend or participate in a meeting or function of the California State Board of Education (SBE), may request assistance by contacting Stacy Michel, Special Education Office, 1430 N Street, Sacramento, CA 95814; telephone, (916) 445-4613; fax, (916) 327-3516.

TITLE 8. DIVISION OF WORKERS' COMPENSATION

DEPARTMENT OF INDUSTRIAL RELATIONS

NOTICE OF PROPOSED RULEMAKING

Subject Matter of Regulations: Workers' Compensation— Supplemental Job Displacement Benefit

CALIFORNIA CODE OF REGULATIONS SECTIONS 10133.50–10133.59

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in him by Labor Code Sections 133, 4658.5, and 5307.3 proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department of Industrial Relations, Division of Workers' Compensation, proposes to adopt Article 7.5 of Chapter 4.5, Subchapter 1.5, of Title 8, California Code of Regulations, commencing with Section 10133.50:

- Section 10133.50 Definitions
- Section 10133.51 Notice of Potential Right to Supplemental Job Displacement Benefit
- Section 10133.52 "Notice of Potential Right to Supplemental Job Displacement Benefit" Form
- Section 10133.53 Form DWC-AD 10133.53 "Notice of Modified or Alternative Work for Injuries Occurring on or after 1/1/04"

- Section 10133.54 Form DWC-AD 10133.54 "Request for Dispute Resolution before the Administrative Director"
- Section 10133.55 Requirement to Issue Supplemental Job Displacement Nontransferable Training Voucher
- Section 10133.56 Form DWC-AD 10133.56 "Supplemental Job Displacement Nontransferable Training Voucher"
- Section 10133.57 State Approved or Accredited Schools
- Section 10133.58 The Administrative Director's List of Vocational Return to Work Counselors
- Section 10133.59 Termination of Employer's Liability for the Supplemental Job Displacement Benefit

PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, oral or in writing, with respect to the subjects noted above, on the following dates:

Date: July 8, 2004

Time: 10:00 am to 5:00 PM or conclusion of business

**Place: Gov. Hiram W. Johnson
State Office Building, Auditorium
455 Golden Gate Avenue
San Francisco, California 94102**

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the Statewide Disability Accommodation Coordinator, Adel Serafino, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require that, any persons who make oral comments at the hearings also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 p.m., on July 8, 2004**. The Department of Industrial Relations, Division of Workers' Compensation will consider only comments received at the Department of Industrial Relations, Division of Workers' Compensation by that time. Equal weight will be accorded to oral comments presented at the hearing and written materials.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Marcela Reyes
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named contact person at (415) 703-4720. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Unless submitted prior to or at the public hearing, Ms. Reyes must receive all written comments no later than 5:00 p.m. on July 8, 2004.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code Sections 59, 133, 4658.5, and 5307.3.

Reference is to Labor Code Sections 124, 4658.5, 4658.6, and 5410.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Section 4658.5 of the Labor Code (effective 1/1/04) requires the Administrative Director to adopt regulations necessary to properly administrate the supplemental job displacement benefit. The supplemental job displacement benefit is available to an injured worker if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability. The statute requires that a voucher for education-related retraining or skill enhancement or both be provided to the eligible employee. The amount of the benefit is determined by the percent of the permanent partial disability award.

Section 4658.6 of the Labor Code (effective 1/1/04) provides that the employer shall not be liable for the supplemental job displacement benefit if the employer timely offers, and the employee rejects, modified or alternative work, which must meet certain criteria. The form and manner of the offer and acceptance or rejection is to be prescribed by the Administrative Director.

The Administrative Director now proposes to adopt the following administrative regulations. These proposed regulations implement, interpret, and make specific Section 4658.5 and Section 4658.6 of the Labor Code as follows:

1. Section 10133.50 Definitions

This section provides definitions for key terms relating to the supplemental job displacement benefit.

2. Section 10133.51 Notice of Potential Right to Supplemental Job Displacement Benefit

This section states when the Notice of Potential Right to Supplemental Job Displacement Benefit is required to be sent. It also provides that the employer is required to use the forms set forth in Sections 10133.52.

3. Section 10133.52 "Notice of Potential Right to Supplemental Job Displacement Benefit" Form

This is the mandatory form that is required to be sent to the employee advising the employee of his or her right to the supplemental job displacement benefit. The form lists the amount of benefits that may be awarded to the employee, that the benefit may be used for payment of tuition, fees, books and other expenses required by the school for retraining or skill enhancement, when the employee will receive the voucher for the benefit, and advises the employee that modified or alternative work may be offered by the employer. It also advises the employee what steps to take if there is a dispute.

4. Section 10133.53 Form DWC-AD 10133.53 "Notice of Modified or Alternative Work for Injuries Occurring on or after 1/1/04"

This is the mandatory two page form that is required to be sent to the employee if the employer has modified or alternative work available.

5. Section 10133.54 Form DWC-AD 10133.54 "Request for Dispute Resolution before the Administrative Director"

If a dispute arises regarding the supplemental job displacement benefit, the parties may request the Administrative Director to resolve the dispute. This is the mandatory form to request the Administrative Director to resolve a dispute.

6. Section 10133.55 Requirement to Issue Supplemental Job Displacement Nontransferable Training Voucher

This section sets forth when the voucher should be issued, what information it must contain and states that a mandatory form (Section 10133.56) must be used.

7. Section 10133.56 Form DWC-AD 10133.56 "Supplemental Job Displacement Nontransferable Training Voucher"

The voucher (mandatory form DWC-AD 10133.56) informs the injured worker what the value of the voucher is and percentage of permanent disability that is the basis for the award amount. The claims administrator is required to fill out lines 1 through 8 and send the form to the employee. The employee is instructed to complete lines 9 through 18 and to sign and date the form. The employee must return the form to the claims administrator and include receipts and documentation of costs. The claims administrator is required to make reimbursement payments to the employee or direct payments to providers within 45 days upon receipt of voucher, receipts and documentation from the employee.

8. Section 10133.57 State Approved or Accredited Schools

This section requires private providers of education-related retraining or skill enhancement to have approval from specific agencies.

9. Section 10133.58 The Administrative Director's List of Vocational Return to Work Counselors

This section provides that the Administrative Director shall maintain a list of Vocational & Return to Work Counselors who meet the specified qualifications. It also provides that the employee shall be responsible for providing the counselor with any necessary medical reports.

10. Section 10133.59 Termination of Employer's Liability for the Supplemental Job Displacement Benefit

This section sets forth the circumstances that end the employers' liability to provide a supplemental job displacement voucher.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. Labor Code § 4658.5 provides for a supplemental job disability benefit for education and training. The benefit will be a

voucher in the amount of \$4000, \$6000, \$8000, or \$10,000 depending upon the injured worker's percentage of permanent disability. Previously, the cap on vocational rehabilitation was \$16,000. Therefore, employers may save as much as \$6,000 to \$12,000 on each case where the injured worker previously was entitled to vocational rehabilitation benefits, but now is entitled to SJDB.

- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: The Administrative Director has determined that the proposed regulations will not have a significant adverse economic impact on representative private persons or directly affected businesses. The entities directly affected by the regulations which allow for supplemental job disability benefits are those which administer workers' compensation claims in California. This includes three types of private businesses: (1) employers who are large and financially secure enough to be permitted to self-insure their workers' compensation liability and who administer their own workers' compensation claims; (2) private insurance companies which are authorized to transact workers' compensation insurance in California; and (3) third party administrators which are retained to administer claims on behalf of self-insured employers or insurers.

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations may affect small businesses.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: None.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all employers, both public and private, and not uniquely to local governments.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. (See "Local Mandate" section above.)

- Other nondiscretionary costs/savings imposed upon local agencies: None. (See "Local Mandate" section above.)

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Administrative Director must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Administrative Director's attention would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

The Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to Government Code Section 11346.45, the text of the draft proposed regulations was made available for pre-regulatory public comment through the Division's Internet message board (the DWC Forums).

AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this notice, the rulemaking file consists of the notice, the initial statement of reasons, the proposed text of the regulations, pre-rulemaking comments, and the Form 399. Also included are studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Division's website at www.dir.ca.gov. To access them, click on the "Proposed Regulations—Rulemaking" link and scroll down the list of rulemaking proceedings to find the current Supplemental Job Disability Benefit rulemaking link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations,

Division of Workers' Compensation, 455 Golden Gate Avenue, 9th Floor, San Francisco, California, between 9:00 a.m. and 4:30 p.m., Monday through Friday. Copies of the proposed regulations, initial statement of reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be requested in writing at the same address. The contact person is:

Marcela Reyes
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142
E-mail: mreyes@dir.ca.gov

The telephone number of the contact person is (415) 703-4600.

BACKUP CONTACT/PERSON CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

In the event the contact person is unavailable, or to obtain responses to questions regarding the substance of the proposed regulations, inquiries should be directed to the following backup contact persons:

Destie Overpeck (doverpeck@dir.ca.gov)
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the backup contact persons is (415) 703-4600.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the website: www.dir.ca.gov

AUTOMATIC MAILING

A copy of this Notice, the Initial Statement of Reasons, and the text of the regulations, will automatically be sent to those interested persons on the Administrative Director's mailing list.

If adopted, the regulations as amended will appear in Title 8, California Code of Regulations, commencing with Section 10133.50.

**TITLE 8. DIVISION OF
WORKERS' COMPENSATION**

DEPARTMENT OF INDUSTRIAL RELATIONS

**NOTICE OF RULEMAKING AFTER
EMERGENCY ADOPTION**

**Subject Matter of
Proposed Amendments to Regulations:
Workers' Compensation—Collective
Bargaining Agreements**

PROPOSED REGULATORY ACTIONS

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereinafter "Administrative Director"), pursuant to the authority vested in her by Labor Code sections 59, 133, 3201.5, 3201.7, 3201.9, and 5307.3, has amended and adopted regulations on an emergency basis to implement the provisions of Labor Code section 3201.7, as adopted by Senate Bill 228. (Chapter 639, Stats. of 2003, effective January 1, 2004.)

The regulations amended are in Chapter 4.5, Subchapter 1.8, of Title 8, California Code of Regulations, sections 10200, 10201, 10202.1, 10202, 10203 10203.1, 10203.2 and 10204. These sections concern negotiated provisions for alternative methods of providing workers' compensation benefits, also generally know as "carve-out" programs.

The emergency regulations became effective on April 22, 2004. The purpose of this rulemaking is to amend and adopt the emergency regulations on a permanent basis.

TIME AND PLACE OF PUBLIC HEARING

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

Date: Thursday, July 8, 2004

Time: 10:00 a.m.

**Place: Auditorium
The Governor Hiram Johnson
State Office Building
455 Golden Gate Avenue
San Francisco, California 94102**

The State Office Building and its Auditorium are accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or any other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State Disability Accommodation Coordinator, Adel Serafino, at 1-866-681-1459 (toll free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.

The Administrative Director requests, but does not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

AUTHORITY AND REFERENCE

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in the Administrative Director by Labor Code sections 59, 133, 3201.5, 3201.7, 3201.9, and 5307.3.

Reference is to Labor Code sections 3201.5, 3201.7, and 3201.9.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Section 3201.7 of the Labor Code, enacted by Senate Bill 228 (Chapter 639, 2003), extends the option to negotiate "labor-management agreements," or "carve-out" programs to employers in any industry not covered by Section 3201.5, who may negotiate such an agreement with a union with whom the employer has an existing collective bargaining relationship.

Paralleling Labor Code section 3201.5, which allows carve-out programs in the construction industry, Labor Code section 3201.7(a)(3) provides that an employer or groups of employers and a union that is the recognized or certified exclusive bargaining representative may negotiate a labor-management agreement that may include an alternative dispute resolution system (with final decisions subject to WCAB review), an agreed list of medical providers,

an agreed list of qualified or agreed medical evaluators, the creation of a joint safety committee, the creation of a return to work program, the creation of a vocational rehabilitation program with an agreed list of rehabilitation providers. Unlike Section 3201.5, however, Section 3201.7(b) provides that employees subject to a section 3201.7 agreement have the right to representation by counsel at all stages during the alternative dispute resolution process.

Labor Code section 3201.7(c) provides that only employers who have annual workers' compensation premiums of \$50,000 or more and have 50 employees are eligible to establish a carve-out program under section 3201.7. Groups of employers, which may include cities and counties, must have premiums of \$500,000 or more.

To establish a carve-out program under Labor Code section 3201.7 a union must first petition the Administrative Director for permission to negotiate a carve-out program. Section 3201.7(d) requires that the union's petition specify the bargaining units to be included, the name of the employer or group of employers that will be negotiated with, and provide proof of the union's status as the exclusive bargaining representative for the employees. The petition must be in "the form designated by the administrative director." When the union's status as the exclusive bargaining representative is verified, the Administrative Director will issue a letter advising the union and employer(s) of their eligibility to enter into negotiations for the purpose of establishing a Section 3201.7 carve-out program. The parties may negotiate for a period of one-year, but can jointly ask for an extension of an additional year if necessary.

When a carve-out agreement is reached, before it can take effect (or be continued), Section 3201.7(e) provides that employers must provide the Administrative Director with the carve-out agreement, the number of employees covered by the agreement, a statement that no action has been taken by an administrative agency or court to invalidate the carve-out agreement, and must provide a contact person, and any other information the Administrative Director finds necessary to implement section 3201.7. Section 3201.7(f) requires that unions must provide their current LM-2 or LM-3 filing with the U.S. Department of Labor and identify their respective contact person.

As with Labor Code section 3201.5, Labor Code section 3201.7 provides the Administrative Director the authority to require section 3201.7 programs to provide data on, among other things, the number of claims filed, the average cost of claims, the number of contested and litigated claims, and the number of workers participating in established return to work or vocational rehabilitation programs. Under Section

3201.7, the Administrative Director must also be provided with information on "overall worker satisfaction."

The Administrative Director now proposes to amend and permanently adopt the emergency regulations applicable to carve-out agreements for employers in all industries. These proposed regulations implement, interpret, and make specific Labor Code section 3201.7.

The regulations may be briefly summarized as follows:

- Section 10200 is amended to define key terms relating to carve-out programs under sections 3201.5 and 3201.7. Among the amendments is the inclusion of the term "labor-management agreement," which is section 3201.7's term for a carve-out program that applies to all industries except for construction, which are covered under section 3201.5.
- Section 10201 sets forth the procedure for recognizing construction carve-out programs under section 3201.5. The proposed amendments incorporate into section 10201 the existing section 10202, addressing the effect of a letter of eligibility issued under Labor Code section 3201.5, into section 10201.
- Section 10202 is adopted to set forth the procedure for recognizing carve-out programs under section 3201.7.
- Section 10202.1 is the Petition for Permission to Negotiate a Section 3201.7 Labor-Management Agreement (DWC Form RGS-1), required by proposed section 10202(a).
- Section 10203, which requires construction carve-out programs to report specific claim data, is amended to include programs recognized under Labor Code section 3201.7. The proposed amendment also implements Labor Code section 3201.9 by requiring claim information for the first mandatory reporting year, and then for next three calendar years as they occur.
- Section 10203.1 is the Aggregate Employer Annual Report (DWC Form GV-1), required by proposed section 10203(a)(2)(A).
- Section 10203.2 is the Individual Employer Annual Report (DWC Form GV-2), required by proposed section 10203(a)(2)(A).
- Section 10204 currently requires construction carve-out programs recognized under section 3201.5 to submit annual updates and provides that a program's letter of eligibility may be revoked if the program fails to submit required data. The proposed regulations amend the section by imposing the requirements on programs recognized under section 3201.7.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Administrative Director has made the following initial determinations:

- Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None. The regulations implement a statute designed to provide substantial cost savings for unionized employers without reducing benefits that are promised to injured workers under existing law. This is primarily accomplished by reducing disputes in medical treatment through a negotiated exclusive list of medical providers and evaluators, and by reducing litigation costs through an alternative resolution system that stands in place of lengthy procedures before the Workers' Compensation Appeals Board.
- Adoption of these regulations will not: (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses within the State of California, or (3) affect the expansion of businesses currently doing business in California.
- Effect on Housing Costs: None.
- Cost impacts on representative private person or business: Unknown but fairly small. Costs would be incurred to establish the administrative structure of the carve-out program, such as payment for the ombudsperson and related staff, and costs associated with establishing an alternative dispute resolution system, such as payments for mediators and arbitrators. Costs would also be incurred to report claim data to the carve-out program administrator or the Administrative Director, as the case may be. The costs are primarily due not to the regulations but to the legislative enactments that established the carve-out program for all unionized industries.

FISCAL IMPACTS

- Costs or savings to state agencies or costs/savings in federal funding to the State: The statute that is being implemented by these regulations will impose an additional workload on the Division of Workers' Compensation. The staffing requirements necessary to accommodate that workload will be addressed through the budget process.
- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. Cities and counties that are self-insured may negotiate carve-out programs with unions that are the exclusive bargaining representative of cities' or counties' employees, but the statute does not mandate such programs. The

potential costs imposed on all public agency employers by these proposed regulations, although not a benefit level increase, are not a new State mandate because the regulations apply to all unionized employers, both public and private, and not uniquely to local governments.

- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code: None. (See "Local Mandate" section above.)
- Other nondiscretionary costs/savings imposed upon local agencies: None. (See "Local Mandate" section above.)

EFFECT ON SMALL BUSINESS

The Administrative Director has determined that the proposed regulations may affect small businesses.

FINDING CONCERNING THE CREATION OF A REPORTING REQUIREMENT

Pursuant to Government Code section 11346.3(c), the Administrative Director has made a finding that requiring employers participating in carve-out programs to submit annual reports is necessary for the health, safety, or welfare of the people of the state, and that it is necessary that this regulation apply to businesses.

The Administrative Director based this determination on the fact that the Administrative Director is required by Labor Code sections 3201.5 and 3201.7 to annually prepare a report concerning specific facts about the carve-out program, and make it available to the Legislature. The reports required by these regulations collect the data necessary to meet the legislative mandate. In addition, the data collected in the reports required by these regulations will allow the Administrative Director to more accurately allocate staff and resources for program oversight and assist the Administrative Director in responding to oversight inquiries concerning the carve-out program.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Administrative Director must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Administrative Director's attention would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

The Administrative Director invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required to implement the proposed regulations, because the issues addressed are not so complex that they cannot easily be reviewed during the comment period.

In addition, the text of the draft proposed regulations was made available for pre-regulatory public comment through the Division's Internet message board (the DWC Forums).

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS / INTERNET ACCESS

An Initial Statement of Reasons and the text of the proposed regulations have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below or a copy will be provided upon written request.

As of the date of this notice, the rulemaking file consists of the notice, the Initial Statement of Reasons, the proposed text of the regulations in strikeout/underline format, and the Form 399. In addition, the Notice, Initial Statement of Reasons, and proposed text of regulations may be accessed and downloaded from the Department of Industrial Relations' Internet site at www.dir.ca.gov

PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present oral and/or written statements, arguments or evidence at the public hearing. If you provide a written comment, it will not be necessary to present your comment as oral testimony at the public hearing.

Any person may submit written comments on the proposed regulations, prior to the public hearings to:

Ms. Marcela Reyes,
Regulations Coordinator
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

Unless submitted prior to or at the public hearing, all written comments must be received by the agency contact person, no later than 5:00 p.m. on Thursday, July 8, 2004. Equal weight will be accorded to oral and written materials.

WRITTEN COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Administrative Director will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: dwcrules@dir.ca.gov

The Administrative Director will also accept written comments transmitted by facsimile provided they are directed to the attention of Marcela Reyes and sent to the following facsimile number: (415) 703-4720. Due to the inherent risks of non-delivery by facsimile transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF RULEMAKING FILE AND LOCATION WHERE RULEMAKING FILE MAY BE INSPECTED

Any interested person may inspect a copy or direct questions about the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file.

The rulemaking file, including the Initial Statement of Reasons, the complete text of the proposed regulations and any documents relied upon in this rulemaking may be inspected during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding public holidays) at the following location:

Division of Workers' Compensation
455 Golden Gate Avenue, Ninth Floor
San Francisco, California 94102

AVAILABILITY OF RULEMAKING DOCUMENTS ON THE INTERNET

Documents concerning this proceeding are available on the Division's website: www.dir.ca.gov. To access them, click on the "Proposed Regulations—Rulemaking" link and scroll down the list of rulemaking proceedings to find the rulemaking link for "Collective Bargaining Agreements Under Labor Code Sections 3201.5 and 3201.7 (Carve-out Programs)."

CONTACT PERSON

Nonsubstantive inquiries concerning this action, such as requests to be added to the mailing list for rulemaking notices, requests for copies of the text of the proposed regulations, the Initial Statement of Reasons, and any supplemental information contained in the rulemaking file may be directed to the contact person. The contact person is:

Ms. Marcela Reyes
Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The telephone number of the contact person is (415) 703-4600.

BACK-UP CONTACT PERSON/CONTACT PERSON FOR SUBSTANTIVE QUESTIONS

To obtain responses to questions regarding the substance of the proposed regulations, or in the event the contact person is unavailable, inquiries should be directed to: James M. Robbins, Industrial Relations Counsel, at the same address and telephone number as noted above for the contact person.

AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING

If the Administrative Director makes changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly indicated will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted. The modified text will be made available on the Division's website: www.dir.ca.gov and may be located by following the directions provided above.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the contact person named in this notice or may be accessed on the Division's website: www.dir.ca.gov by following the directions provided above.

AUTOMATIC MAILING

A copy of this Notice, including the Informative Digest, will automatically be sent to those interested persons on the Administrative Director's mailing list and the DWC Carve-out Program's mailing list.

If adopted, the proposed regulations as amended will appear in Title 8, California Code of Regulations, sections 10200, 10201, 10202.1, 10202, 10203 10203.1, 10203.2 and 10204.

TITLE 14. FISH AND GAME COMMISSION

NOTICE OF PROPOSED CHANGES IN REGULATIONS

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 215, 220, and 315 of the Fish and Game Code and to implement, interpret or make specific sections 200, 205, 206, 215, 220 and 315 of said Code, proposes to amend subsection (b)(178) of Section 7.50, Title 14, California Code of Regulations, relating to Silver King Creek (Alpine County).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations for Silver King Creek and tributaries downstream of Llewellyn Falls provide for trout fishing from the last Saturday in April through November 15, with a five-fish daily bag limit and ten-fish possession limit. Angling is permitted downstream of Llewellyn Falls where nonnative trout exist and compete with native Paiute cutthroat trout.

The Department is proposing to prohibit angling in a planned restoration portion of Silver King Creek between Llewellyn Falls and Snodgrass Creek. The Department is scheduled to implement a Paiute cutthroat trout restoration project in Silver King Creek downstream of Llewellyn Falls to Snodgrass Creek that will eliminate nonnative trout and benefit native Paiute cutthroat trout. The proposed angling closure will protect Paiute cutthroat trout and promote rebuilding of the population. Other existing portions of the watershed currently closed to angling would remain closed.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mono Memorial Hall, 100 Sinclair Street, Bridgeport, California, on Friday, August 6, 2004, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 30, 2004, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 6, 2004, at the hearing in Bridgeport, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Robert R. Treanor or Sherrie Koell at the preceding address or phone number. **Ed Pert, Chief, Fisheries Programs Branch, Department of Fish and Game, phone (916) 445-3616, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete With Businesses in Other States:
The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulation affects a short stream reach in a remote wilderness area of northern California.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 22. EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22,
California Code of Regulations,
Sections 926-3, 926-4, and 926-5

TAXABLE VALUE OF MEALS AND LODGING

NOTICE OF PROPOSED RULEMAKING

The Employment Development Department (Department) proposes to amend California Code of Regulations (CCR), title 22, sections 926-3, 926-4, and 926-5, by increasing the taxable value of meals and lodging furnished to employees by employers during calendar year 2004. These increases are due to inflation.

The Department will adopt these amendments after considering all comments, objections, or recommendations regarding the proposed action.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CCR, title 22, sections 926-3, 926-4, and 926-5, provide the taxable value of meals and lodging furnished to employees by employers. In order to establish the equivalent amount of cash wages paid by employers who pay a portion of their employee's wages in the form of meals or lodging, it is necessary to compute the reasonable cash value of such meals and lodging for unemployment insurance purposes.

The Department makes this computation each calendar year to reflect the upward or downward trend in the cost of living during the previous calendar year. This yearly computation ensures an accurate and up-to-date calculation of the taxable values of meals and lodging for purposes of “wages” within the meaning of Unemployment Insurance Code (UIC) section 926.

According to the United States Department of Labor, Bureau of Labor Statistics [<http://data.bls.gov/cgi-bin/srgate>], the average retail food price index for fiscal year 2002–2003 was 185.7, up 427.6 percent from the average of 35.2 for the base year 1968–69. The average residential rent index for the fiscal year ended June 30, 2003, was 221.5. This is 397.8 percent above the average residential rent index of 44.5 for the base year ended June 30, 1973. The Department uses 1968–69 as the base year for food and 1973 as the base year for rent because these are the years used by the Bureau of Labor Statistics.

These regulations are being amended to reflect, in substantially the same ratio, the increases in the retail food price index and residential rent index which occurred during the fiscal year ended June 30, 2003.

Notwithstanding sections 926-3(a)(2), and 926-4(a)(2), and 926-5(a)(2)(A) of CCR, title 22, which state in part: “For the calendar year 2004 and thereafter, except as modified herein . . .”, the Department recognizes that the amendments made to these sections will not become effective until the regulations are approved by the Office of Administrative Law.

Section 926-3.

This regulatory action will amend section 926-3, relating to the taxable value of board and lodging. In 2004 and thereafter until modified, the taxable value of three meals per day is raised from \$8.45 to \$8.55. The taxable value of breakfast remains at \$1.85. The taxable value of lunch is raised from \$2.55 to \$2.60. The taxable value of dinner is raised from \$4.05 to \$4.10. The taxable value of an unidentified meal is raised from \$2.95 to \$3.00. The taxable value of lodging is raised from \$886.00 to \$921.00 monthly maximum, and from \$28.75 to \$29.85 weekly minimum.

Section 926-4.

This regulatory action will amend section 926-4, relating to the taxable value of meals and quarters furnished to officers and crewmen aboard vessels. In 2004 and thereafter until modified, the taxable value of daily meals is increased from \$8.45 to \$8.55. The taxable value of quarters is increased from \$4.10 to \$4.25 daily for unlicensed personnel. The taxable value of quarters is increased from \$6.00 to \$6.20 daily for licensed personnel.

Section 926-5.

This regulatory action will amend section 926-5, relating to the taxable value of meals and quarters received by fishermen aboard fishing vessels. In 2004 and thereafter until modified, the taxable value of quarters is increased from \$28.75 to \$29.85 a week, or from \$4.10 to \$4.25 a day for periods of less than a week under specified conditions.

AUTHORITY AND REFERENCE

Authority: Sections 305 and 306, Unemployment Insurance Code.

Reference: Section 926, Unemployment Insurance Code.

FISCAL IMPACT

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: Approximately 281,933 businesses and small businesses will be affected statewide by these regulations. The types of businesses affected include fisheries, restaurants and eating establishments, apartment complexes, private households, residential care facilities, and home health care. The total statewide cost to businesses and small businesses is anticipated to be \$6.9 million, however, the cost to individual businesses is minimal. The regulation does not impose any new reporting requirements on businesses.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: These proposed amendments will affect only those employees who are furnished meals or lodging by their employers. The Department anticipates that the fiscal impact to employees will be negligible.

Anticipated impact on housing costs: These proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

SMALL BUSINESS IMPACT

These proposed amendments will not have a significant impact on small businesses since the changes reflect small inflationary increases in the taxable value of meals and lodging for purposes of wages within the meaning of section 926 of the UIC. Essentially, the proposed amendments will only accelerate the point at which an employee reaches the maximum taxable wage limit for the calendar year.

LOCAL MANDATE DETERMINATION

The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

CONSIDERATION OF ALTERNATIVES

In accordance with section 11346.5(a)(13) of the Government Code, the Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory amendments.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments on the proposed action to Laura Colozzi via U.S. mail, e-mail, or fax (see U.S. mail and e-mail addresses and fax number indicated below). **E-mail comments should include true name and mailing address of the commentor. Written comments submitted via U.S. mail, e-mail, or fax, must be received by the Department no later than July 5, 2004, at 5 p.m.** Please submit any written comments before that time. The Department cannot accept written comments after the close of the public comment period.

CONTACT PERSONS

Inquiries or comments should be directed to:

(Mailing address) Laura Colozzi, Legal Analyst
Employment Development
Department
P. O. Box 826880
Legal Office, MIC 53
Sacramento, CA 94280-0001

(Hand delivery) Laura Colozzi, Legal Analyst
Employment Development
Department
800 Capitol Mall, Room 5020
Legal Office, MIC 53
Sacramento, CA 95814

Telephone No.: (916) 654-7712
Fax No.: (916) 654-9069
E-Mail Address: eddegal@edd.ca.gov

Note: In the event Laura is unavailable, inquiries should be directed to the following backup contact persons at the same address as noted above:

Name: Penny Ayers, Legal Analyst
Telephone No.: (916) 654-8410

Questions regarding the substance of the proposed regulatory action should be directed to:

Name: Barbara Kaufman,
Staff Counsel
Telephone No.: (916) 654-8410

INTERNET WEBSITE ACCESS

The Department has posted on its Internet website <http://www.edd.ca.gov> materials regarding the proposed regulatory action. Select "Proposed EDD Regulations."

PUBLIC HEARING

No public hearing has been scheduled on the proposed action. However, if any person desires to submit oral comments, the Department will schedule a public hearing upon that person's written request. **Such request must be received no later than 15 days prior to the close of the written comment period which is 5 p.m. on July 5, 2004.** A request for hearing can be made by contacting the persons noted above.

MODIFICATION OF PROPOSED ACTION

If the Department makes any additional changes based on public testimony, those changes (other than nonsubstantial or solely grammatical modifications) will be made available for public comment for at least 15 days before they are adopted. Copies of any additional changes regarding the proposed regulatory action will be mailed to all persons who testified or submitted written comments at the public hearing (if one is scheduled); whose comments were received by the agency during the public comment period; and who requested notification from the agency of the availability of such changes.

FINAL STATEMENT OF REASONS

After the close of the 45-day public comment period, the Department will summarize and respond to all public comments in a written final statement of reasons. To obtain a copy of the final statement of reasons, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

FURTHER INFORMATION

The Department has prepared and has available for review, upon request, the text of the proposed

regulatory amendments discussed in this notice, written in plain English; a statement of reasons setting forth the purpose of the amendments; and the information upon which the Department relied in proposing the amendments. (If you received this notice by mail, a copy of the text of the proposed amendments and the statement of reasons were enclosed.) To obtain a copy, contact the persons noted above, or access the Department's Internet website at <http://www.edd.ca.gov>.

All the information upon which the proposed amendments are based is contained in the rulemaking file, which is available for public review. For inquiries regarding the rulemaking file or the regulations' process, contact the persons noted above.

TITLE 22. OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

ACTION: Notice of Emergency Rulemaking
(Emergency Number 04-0414-01E)

SUBJECT: **Changes to the Special Fees Charged
to Hospitals and Long-term Care
Facilities**

PUBLIC PROCEEDINGS

NOTICE IS HEREBY GIVEN that the Office of Statewide Health Planning and Development (hereafter the "Office") will conduct written public proceedings during which time any interested person or organization may present statements, arguments, or contentions relevant to the amendment of Section 90417 of Title 22 of the California Code of Regulations (CCR) to reduce the special fee assessment rate for hospitals from 0.035% of gross operating costs to 0.027% of gross operating costs, and to reduce the special fee assessment rate for long-term care facilities from 0.0312% of gross operating costs to 0.027% of gross operating costs. Section 90417 was amended through emergency regulations approved by the Office of Administrative Law, and became effective April 26, 2004. Written public proceedings are being conducted to validate this amendment to Section 90417. Interested parties may submit written comments presenting statements, arguments, or contentions relating to the emergency regulation. All such comments must be received by the Office at 818 K Street, Room 400, Sacramento, CA 95814 by 5:00 p.m. on July 5, 2004, which is designated as the close of the written comment period. NOTICE IS ALSO GIVEN that no public hearings will be held. However, a public hearing will be held if, no later than 15 days prior to the close of the written comment

period, an interested person submits a written request to hold a public hearing to the Contact Person (see Contact Person below).

CONTACT PERSON

General and substantive inquiries and comments concerning the emergency regulation changes may be addressed to Kenrick J. Kwong, Manager, Accounting and Reporting Systems Section, Office of Statewide Health Planning and Development, 818 K Street, Room 400, Sacramento, California 95814 (telephone: 916-323-7681; fax: 916-327-0377; e-mail: kkwong@oshpd.ca.gov). The Office's backup contact person is Tim Pasco, Systems Analyst, Hospital Financial Data Unit, Office of Statewide Health Planning and Development, 818 K Street, Room 400, Sacramento, California 95814 (telephone: 916-323-1955; fax: 916-327-0377; e-mail: tpasco@oshpd.ca.gov).

POLICY STATEMENT OVERVIEW

The purpose of the proposed regulation change is to reduce the special fee charged hospitals annually from 0.035% to 0.027% of the hospital's annual gross operating costs, and to reduce the special fee charged long-term care facilities from 0.0312% to 0.027% of the facility's gross operating costs.

INFORMATIVE DIGEST

Section 90417 of Title 22 of the California Code of Regulations establishes the level of special fee rates annually assessed health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. As authorized by Section 127280 of the Health and Safety Code, each year the Office establishes the fee sufficient to produce revenues equal to the appropriation to pay for the required collection, processing, and dissemination of health facility financial and utilization data, and hospital patient-level data.

The Office has determined that the reserve balance of the California Health Data and Planning Fund should fall in the range between \$4.5 million and \$5.0 million with the California Department of Finance's concurrence. Currently, the projected ending reserve balance of this fund for the 2003-04 fiscal year is \$7.3 million. In order to reduce the reserve balance in the California Health Data and Planning Fund, the Office amended Section 90417 to reduce the special fee charged to hospitals from 0.035% of gross operating costs to 0.027% of gross operating costs, and to reduce the special fee charged to long-term care facilities from 0.0312% of gross operating costs to 0.027% of gross operating costs. By collecting less revenues than the appropriation to pay for the required collection, processing, and dissemination of health facility financial and utilization data, and hospital patient-level

data, the reserve balance of the California Health Data and Planning Fund will be reduced. However, in subsequent years, the Office may have to increase the special fee to collect revenues equal to the budget appropriation for the Office's data programs.

Section 127280 of the Health and Safety Code limits the special fee not to exceed 0.035% of the annual gross operating costs of health facilities.

AUTHORITY AND REFERENCE

Section 127280 of the Health and Safety Code authorizes the Office to annually establish the special fee to produce revenues equal to the appropriation to pay for the functions required to be performed pursuant to Division 107—Statewide Health Planning and Development, Part 2—Health Policy and Planning, Chapter 1—Health Planning, commencing with Section 127125 of the Health and Safety Code, and Part 5—Health Data, Chapter 1—Health Facility Data, commencing with Section 128675 of the Health and Safety Code.

Section 127150 of the Health and Safety Code authorizes the Office director to implement, interpret, or make specific regulations for the implementation of Chapter 1—Health Planning, commencing with Section 127125 of the Health and Safety Code.

Section 128810 of the Health & Safety Code authorizes the Office to administer Chapter 1—Health Facility Data, commencing with Section 128675 of the Health & Safety Code, and make all regulations necessary to implement the provisions and achieve its purposes.

FISCAL IMPACT ESTIMATES

- A. Estimate of Cost or Savings to Any State Agency (Cal. Gov't Code § 11346.5(a)(6)): None.
- B. Cost to Any Local Agency or School District That is Required to be Reimbursed by the State (Cal. Gov't § 11346.5(a)(5)): None.
- C. Non-Discretionary Cost or Savings Imposed on Local Agencies (Cal. Gov't Code § 11346(a)(6)): Each hospital charged the special fee, including those operated by local governments, will pay 80 cents less per \$10,000 of its gross operating costs, and each long-term care facility will pay 42 cents less per \$10,000 of its gross operating costs as a result of this regulation change.
- D. Cost or Savings in Federal Funding to the State (Cal. Gov't Code § 11346.5(a)(6)): None.
- E. Impact on Housing Costs (Cal. Gov't Code § 11346.5(a)(12)): None.
- F. Potential Cost Impact on Private Persons or Affected Businesses, Other Than Small Businesses (Cal. Gov't Code § 11346.5(a)(9)): The Office is

not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

DETERMINATIONS

As required by Government Code Section 11346.5(a)(5), the Office has determined that the emergency regulation would not impose a reimbursable mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

As required by Government Code Section 11346.5(a)(8), the Office has made an initial determination that the emergency regulation would not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

As required by Government Code Section 11346.3(b)(1), the Office has determined that the emergency regulation would not significantly affect the following:

- 1) The creation or elimination of jobs within the State of California.
- 2) The creation of new businesses or the elimination of existing businesses within the State of California.
- 3) The expansion of businesses currently doing business within the State of California.

As required by Section 4 of Title 1 of the California Code of Regulations, the Office has determined that the emergency regulation will not significantly affect small businesses as defined in Government Code Section 11342.610. No hospitals meet the definition of a small business, and the long-term care facilities that meet the definition of a small business will be charged the same reduced rate as all long-term care facilities. The assessment rate for long-term care facilities is reduced from 0.0312% of gross operating costs to 0.027% of gross operating costs. This results in a reduction of the special fee for long-term care facilities of 42 cents less per \$10,000 of gross operating costs, and is not significant.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENT

The Office prepared an Initial Statement of Reasons for the emergency regulations. This statement, the text of the emergency regulations (in italics and strikeout format), and the information in support of the emergency changes are available from the Office at the address indicated above (see Contact Person). In addition, the Initial Statement of Reasons and the text of the emergency changes will be available on the

Office's web site at: <http://www.oshpd.ca.gov/hid/aboutus/laws.htm>. The Office will notify all affected hospitals and long-term care facilities by e-mail or regular mail of the availability of the Initial Statement of Reasons and the text of the emergency changes.

Any person submitting a comment on the emergency regulations has the right to request a copy of the Final Statement of Reasons once it has been prepared from the Contact Person (see Contact Person).

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the public comment period or at the end of the public hearing, if one is requested and held, the Office may, without further notice, adopt the emergency regulatory changes as filed or adopt them with non-substantial or grammatical changes as it deems appropriate. If the Office changes or modifies the express terms of the emergency action, other than non-substantial or grammatical changes, the full text of the modified regulations will be made available to the public at least 15 days before they are adopted. A request for copies of modified regulations should be submitted to the Contact Person at the address noted above.

ALTERNATIVES

According to Government Code Section 11346.5(a)(12), the Office must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

TITLE 25. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF PROPOSED RULEMAKING FOR THE PREDEVELOPMENT LOAN PROGRAM (PDLP) AND THE CALIFORNIA SELF HELP HOUSING PROGRAM (CSHHP)

Notice is hereby given that the Department of Housing and Community Development (Department) proposes to amend regulations for the Predevelopment Loan Program (PDLP) and the California Self Help Housing Program (CSHHP). The purpose of these programs is to provide construction loans to private non-profit, for-profit and local public agencies to finance development of affordable multifamily rental housing projects that involve new construction, rehabilitation, or conversion of nonresidential structures to residential use.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action by the department. The written comment period begins on May 21, 2004 and closes at 5:00 p.m. on July 5, 2004. The department will consider comments received during this timeframe. No public hearing is currently scheduled; however, if there is sufficient interest in holding a public hearing, a hearing may be scheduled no later than 15 days prior to the close of the written comment period. A request for a public hearing should be made in writing to the contact person identified below.

AUTHORITY AND REFERENCE

The Department is conducting this rulemaking activity under the authority provided by Health and Safety Code (H&S) Section 50402 and 50406 and to implement, interpret, and make specific Sections 18007, 18008, 18214, 50055, 50091, 50093.5, 50105, 50199.21 and 50530, 50530.5, 50531 and 50532.5 of the Health and & Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The purpose of the California Self Help Housing Program (CSHHP) is to provide grants to eligible sponsors that are engaged in developing, conducting, administering or coordinating programs of assistance that aid eligible households to construct residential units for their own use.

Predevelopment Loan Program (PDLP) provides predevelopment capital to finance the start of low-income housing projects. PDLP funds may be used to pay the costs of site control, site acquisition, engineering studies, architectural plans, application and permit fees, legal services, bonding, site preparation and other predevelopment costs. The new provisions are, as follows:

Section 7002—Amendments to this section delete Emergency Loan Amendments and Loan Committee from the definitions under the predevelopment Loan Program.

Section 7005—Amendments to this section delete the need for the loan committee review and recommendations.

Section 7006—Amendments to this section removes the authority to reduce or eliminate repayment of loans from the loan committee and gives the Director the authority to reduce or eliminate prior repayment.

Section 7008—Amendments to this section delete the loan committee’s review and recommendations regarding the amount of security required for each loan.

Section 7012—Amendments to this section remove the loan committee’s involvement in the from the application process.

Section 7532—Amendments to this section eliminate Committee from the definitions under the California Self Help Housing program.

Section 7540—Amendments to this section delete the need for committee review and recommendations.

Section 7544—Amendments to this section removes the Committee from the conditional commitment process.

Section 7562—Amendments to this section gives the Director the authority to increase the limit on mortgage assistance for eligible households.

IMPACT OF PROPOSED REGULATIONS

The Program regulations are designed to provide financing to assist in the construction of housing for low and moderate incomes. The department proposes to delete the requirement that applications for PDLF and CSHHP funding to be sent to the Committee for review and recommendation. Program staff will be given the task reviewing applications and making funding recommendations without the assistance of the Committee.

AFFECT ON SMALL BUSINESS

The proposed regulations do not affect small businesses, because the regulations do not mandate or require small businesses to take any prescribed action, and it has no financial impact on small businesses.

LOCAL MANDATE

The proposed regulatory activity will not impose a mandate on local agencies or school districts. Local agencies are eligible for the program, but are not required to participate. It is not anticipated that school districts will be part of this applicant pool. In any case, participation in the program is voluntary.

FISCAL IMPACT

These amendments do not mandate any increased costs, and will simplify the application process for these programs. This regulatory activity does not impose any cost on any local agency or school district that is required to be reimbursed under Part 7 (commencing with sec. 17500) of Division 4 of the Government Code; neither does the regulatory activity result in any other nondiscretionary cost or savings imposed on local agencies or in any cost or savings to any state agency (other than the department) or in federal funding to the state. There is no impact on federal funding to the state.

EFFECT ON HOUSING COSTS

These programs assist residents of affordable housing developments by facilitating more projects, with lower rents. The proposed amendments are will not have an affect on housing costs.

INITIAL DETERMINATION OF STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY EFFECTING BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly effecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT STATEMENT

The Department has determined that the regulations will not significantly affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California. In any case, participation in the program would be voluntary.

STATEMENT OF POTENTIAL COSTS IMPACT ON PRIVATE PERSONS AND BUSINESS DIRECTLY AFFECTED

The Department is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action. While private businesses (nonprofits) and individuals are eligible to receive program funds under the program, participation is voluntary.

CONSIDERATION OF ALTERNATIVES

The Department of Housing and Community Development must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF TEXT OF PROPOSED REGULATIONS AND STATEMENT OF REASONS

The text of the proposed regulations is available upon request, along with the Initial Statement of Reasons, prepared by the Department, which provides the reasons for the proposals. All information the Department is considering as a basis for this proposal is maintained in a rulemaking file, which is available for inspection at the address noted below. Copies can be obtained by contacting Lenora Frazier at the address and telephone number noted below.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the written comment period, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text—with changes clearly indicated—available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Lenora Frazier at the address indicated below. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF RULEMAKING
DOCUMENTS**

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public review, by contacting the person named below.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

At the conclusion of this rulemaking, a Final Statement of Reasons will be prepared as required by Government Code section 11346.9. This document will be available from the contact person named below.

CONTACT INFORMATION PERSON

HCD: **Lenora Frazier**
(916) 323-7288

HCD Back-Up: **Dennis Beddard**
(916) 323-7288

HCD Address: **State Department**
of Housing and Com-
munity Development
1800 Third Street, Room 440
Sacramento, California
95814

HCD Website: Copies of the Notice of Pro-
posed Action, the Initial State-
ment of Reasons, and the text
of the regulations may be
accessed through our website
at www.hcd.ca.gov

HCD Facsimile No: **(916) 323-2815**

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period. Direct inquiries concerning

the substance of the proposed rulemaking action and any requests for the documents noted above should be made to:

Lenora Frazier, Legal Analyst
Legal Affairs Division
State Department of Housing and
Community Development
P.O. Box 952052
Sacramento, California 94252-2052
Telephone (916) 323-7288
Fax (916) 323-2815
lfrazier@hcd.ca.gov

GENERAL PUBLIC INTEREST

**OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

**NOTICE OF EXTENSION OF PUBLIC
COMMENT PERIOD DEADLINE FOR
CALIFORNIA CODE OF REGULATIONS,
TITLE 8, GENERAL INDUSTRY SAFETY
ORDERS, CHAPTER 4, SUBCHAPTER 7,
ARTICLE 107, SECTION 5155**

AIRBORNE CONTAMINANTS

Notice is hereby given that the Occupational Safety and Health Standards Board (Standards Board) has rescheduled the public comment period for the above proposed standard through **June 17, 2004**. This proposal was originally noticed in the California Regulatory Notice Register, dated October 31, 2003, and was heard at the Standards Board's Public Hearing on December 18, 2003. The original public comment period deadline for this proposal was December 18, 2003; however, the Standards Board has extended the close of public comment period through June 17, 2004, at 5:00 p.m.

Any interested person may present statements or arguments orally or in writing on the proposed changes under consideration at the June 17, 2004, Public Hearing in Glendale, California, in the Council Chambers, Second Floor of the Glendale City Hall, 613 E. Broadway, at 10:00 a.m. The official record of the rulemaking proceedings will be closed at 5:00 p.m. on June 17, 2004. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Standards Board's rulemaking file on the proposed action including all the information upon which the proposal is based is open to public

inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the above proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

DECISION NOT TO PROCEED

BOARD OF EDUCATION

NOTICE OF DECISION NOT TO PROCEED

TITLE 5. EDUCATION

Pursuant to Government Code section 11347, the California State Board of Education (State Board) has decided not to proceed with Title 5, Division 1, Sections 3088.1 and 3088.2, Withholding Funds—Special Education Mandates, (Notice File No. Z04-0113-07), published January 23, 2004, in the California Regulatory Notice Register 2004, No. 4-Z, page 73), based on comments received and therefore, withdraws this proposed action for further consideration.

The State Board will initiate at a later date, with notice as required by law, a new proposal to adopt regulations pertaining to the same or similar subject matter. The California Department of Education will also publish this Notice of Decision Not to Proceed on the Department's Web site at <http://www.cde.ca.gov/index.asp>.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA,

95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF EQUALIZATION

Conflict of Interest

The Board of Equalization is amending its conflict of interest code found at title 18, section 6001, California Code of Regulations. These changes were approved for filing by the Fair Political Practices Commission on March 10, 2004.

Title 18
California Code of Regulations
AMEND: 6001
Filed 05/06/04
Effective 06/05/04
Agency Contact: Diane G. Olson (916) 322-9569

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Implementation of the Electronic Waste Recycling Act of 2003

This emergency regulatory action establishes procedures for disbursing payments to approved collectors and approved recyclers to help cover their costs of electronic waste recovery and recycling, and provides the methods manufacturers can use to report to the CIWMB on sales data and baselines of certain hazardous constituents, recycled materials, and recycling and design efforts. Pursuant to Public Resources Code section 42475.2, subdivision (b), these emergency regulations are effective for two (2) years, or until revised by CIWMB.

Title 14
California Code of Regulations
ADOPT: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.14, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31, 18660.32, 18660.33, 18
Filed 05/10/04
Effective 05/10/04
Agency Contact: Claudia Moore (916) 341-6295

DEPARTMENT OF FISH AND GAME

San Francisco Tug Escorts

The regulatory action deals with Clearing House and Pilot responsibilities in regard to tug escort requirements for the San Francisco Bay Region.

Title 14
California Code of Regulations
AMEND: 851.6
Filed 05/10/04
Effective 06/09/04
Agency Contact: Joy Lavin-Jones (916) 327-0910

**DEPARTMENT OF FORESTRY AND FIRE
PROTECTION****State Responsibility Fees**

Existing law requires the State Board of Forestry and Fire Protection (BOF) to designate areas of the state as "State Responsibility Area" (SRA) to provide protection for life, property, and natural resources. Newly adopted section 4139 of the Public Resources Code imposes an annual \$35 SRA benefit fee on each parcel of land located, in whole or in part, within the SRA. This emergency regulatory action by the Department of Forestry and Fire Protection (CDF) defines "parcel" and includes other provisions necessary to implement the assessment and collection of the SRA fee.

Title 14

California Code of Regulations

ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5

Filed 05/10/04

Effective 05/10/04

Agency Contact: Dean Cromwell (916) 445-4302

DEPARTMENT OF JUSTICE**Department of Motor Vehicles Salvage Industry
Business Partner Surety Bond**

This is the amendment of a Salvage Industry Business Partner Surety Bond by the Department of Justice pursuant to Government Code section 11110 to be used by individuals required to file such a bond with the Department of Motor Vehicles. This regulatory action is submitted to OAL only for the purposes of filing the regulation with the Secretary of State and printing the regulation in the California Code of Regulations.

Title 11

California Code of Regulations

AMEND: 51.20

Filed 05/05/04

Effective 05/05/04

Agency Contact: Anne M. Burr (415) 703-1403

DEPARTMENT OF MANAGED HEALTH CARE**Interpretive Opinions**

This nonregulatory filing revises the e-mail address for the Department that an individual may use as a method for submitting a request for an interpretive opinion from the Department.

Title 28

California Code of Regulations

AMEND: 1005

Filed 05/05/04

Effective 05/05/04

Agency Contact:

Elaine Paniewski (916) 324-9024

EDUCATION AUDITS APPEAL PANEL**Operating Procedures of EAAP**

This regulatory action establishes the Panel's procedures for local education agencies to submit appeals of apportionment significant audit exceptions, notices of appeal, and requests for summary review to the Panel.

Title 5

California Code of Regulations

ADOPT: 19800, 19801, 19803, 19804, 19805

Filed 05/10/04

Effective 05/10/04

Agency Contact:

Carolyn Pirillo (916) 595-4769

SECRETARY OF STATE**Safe at Home Confidential Address Program**

In this regulatory action, the Secretary of State implements the "Safe at Home" Confidential Address Program for reproductive health care services providers, employees, volunteers, and patients pursuant to Government Code sections 6215 through 6217.

Title 2

California Code of Regulations

ADOPT: 22100 (renumbered to 22100 and 22100.1), 22110 (renumbered to 22100.2), 22120 (renumbered to 22100.3), and 22130 (renumbered to 22100.4)

Filed 05/11/04

Effective 05/11/04

Agency Contact: Regulation Coordinator

STATE MINING AND GEOLOGY BOARD**Surface Mining Financial Assurances**

This action adopts procedures for modification or release of a financial assurance instrument following the completion of reclamation of lands disturbed by a surface mining operation.

Title 14

California Code of Regulations

ADOPT: 3808.5

Filed 05/11/04

Effective 05/11/04

Agency Contact:

John G. Parrish (916) 322-1082

STATE WATER RESOURCES CONTROL BOARD**Amendment to LA Basin Palm to Revise Chloride in
the Lower Santa Clara River**

This amendment to the Los Angeles Water Quality Control Plan raises the water quality objective for chloride in the Lower Santa Clara River between A Street, Fillmore, and Freeman Diversion Dam near Saticoy from 80 mg/L to 100 mg/L.

Title 23

California Code of Regulations

ADOPT: 3939.8

Filed 05/06/04
 Effective 05/06/04
 Agency Contact: Greg Frantz (916) 341-5553

**CCR CHANGES FILED WITH THE
 SECRETARY OF STATE
 WITHIN JANUARY 7, 2004
 TO MAY 12, 2004**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

03/29/04 ADOPT: 1395, 1398 AMEND: 1314, 1321, 1322, 1323, 1324, 1332, 1334, 1354, 1390, 1392

Title 2

05/11/04 ADOPT: 22100 (renumbered to 22100 and 22100.1), 22110 (renumbered to 22100.2), 22120 (renumbered to 22100.3), and 22130 (renumbered to 22100.4)
 04/26/04 ADOPT: 585
 04/22/04 AMEND: 1142
 04/15/04 AMEND: 599.508
 04/13/04 ADOPT: 599.511 AMEND: 599.500
 03/23/04 ADOPT: 649.23, 649.24, 649.25, 649.26, 649.27, 649.28
 03/23/04 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859.171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1
 03/23/04 AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145
 03/22/04 ADOPT: 599.517
 03/22/04 AMEND: 1859.77.2
 03/11/04 AMEND: Div. 8, Ch. 53, Section 54200
 03/11/04 AMEND: 18703.1, 18703.2, 18703.3, 18703.4, 18703.5
 03/09/04 ADOPT: 22500, 22501, 22502, 22503, 22504, 22505, 22506, 22507, 22508, 22509, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519

03/02/04 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2
 03/01/04 AMEND: 1555
 02/26/04
 02/23/04 AMEND: 59150
 02/23/04 AMEND: 1181.1
 02/20/04 ADOPT: 58600
 02/20/04 AMEND: Div. 8, Ch. 4, Sec. 25001
 02/09/04 ADOPT: 599.893, 599.898, 599.906, 599.907, 599.909 AMEND: 599.894, 599.895, 599.896, 599.898 (renumbered to 599.897), 599.903, 599.904, 599.905, 599.906 (renumbered to 599.908), 599.910
 02/05/04 AMEND: 20107
 01/23/04 ADOPT: 18531.6 AMEND: 18531.61
 01/22/04 AMEND: 18707.5
 01/15/04 ADOPT: 599.516
 01/15/04 AMEND: 2270, 2271
 01/14/04 AMEND: 18427.1

Title 3

05/03/04 AMEND: 3700(c)
 04/27/04 ADOPT: 6487.1, 6487.2, 6487.3, 6487.4, 6487.5, 6609 AMEND: 6000, 6416, 6800, 6486.6 REPEAL: 6486.1, 6486.2, 6486.3, 6486.4, 6486.5, 6486.8, 6557, 6570, 6802
 04/26/04 AMEND: 6130
 04/26/04 AMEND: 3601(g)
 04/23/04 ADOPT: 797.5 AMEND: 820.8 REPEAL: 820.7
 04/20/04 AMEND: 2676, 2681, 2735, 2783
 04/20/04 AMEND: 3700(c)
 04/01/04 AMEND: 3700(d)
 03/23/04 AMEND: 3423(b)
 03/23/04 AMEND: 6462
 02/17/04 AMEND: 3430(b)
 02/05/04 AMEND: 3417(b)
 01/27/04 ADOPT: 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857
 01/14/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784

Title 4

04/26/04 ADOPT: 10300, 10302, 10305, 10310, 10315, 10317, 10320, 10322, 10325, 10326, 10327, 10328, 10330, 10335, 10337
 04/22/04 ADOPT: 4145, 4146, 4147, 4148 AMEND: 4140
 04/13/04 ADOPT: 144
 03/29/04 ADOPT: 10163, 10164 AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162
 03/23/04 AMEND: 4001
 03/05/04 ADOPT: 12204, 12205, 12210, 12211, 12212, 12213, 12214, 12224, 12225,

12227, 12228, 12229, 12230, 12231,
12232 AMEND: 12200, 12201, 12202,
12203, 12206, 12207, 12208, 12209,
12220, 12221, 12222, 12223, 12226

02/27/04 ADOPT: 12270, 12271, 12272

02/20/04 ADOPT: 12300, 12301, 12301.1, 12302,
12303, 12304, 12305, 12306, 12307,
12308, 12309, 12310 AMEND: 12300,
12301, 12302, 12303, 12304, 12305,
12309 REPEAL: 12303, 12307

02/05/04 AMEND: 12202, 12212, 12213, 12220,
12221, 1222, 12223, 12224, 1225, 12226,
12227, 12228, 12229, 12230, 12231,
12232

02/05/04 ADOPT: 12370, 12371

01/22/04 AMEND: 1371 REPEAL: 1373.1

Title 5

05/10/04 ADOPT: 19800, 19801, 19803, 19804,
19805

04/22/04 ADOPT: 876

03/15/04 ADOPT: 19810, 19811, 19812, 12913,
19814, 19815, 19816, 19817, 19818,
19819, 19820, 19821, 19822, 19823,
19824, 19825, 19826, 19827, 19828,
19829, 19830, 19831

03/11/04 ADOPT: 19802

03/08/04 AMEND: 30060

02/27/04 ADOPT: 6100, 6101, 6102, 6103, 6014,
6110, 6111, 6112, 6115

02/10/04 AMEND: 11960

02/03/04 ADOPT: 853.5 AMEND: 850, 852, 853,
589

02/02/04 ADOPT: 42353.1 AMEND: 42354

02/02/04 AMEND: 41301

02/02/04 REPEAL: 41801

01/16/04 ADOPT: 58509 REPEAL: 58509

Title 8

04/29/04 AMEND: 3427

04/23/04 AMEND: 14300.10, 14300.12, 14300.29,
Appendix A, Appendix B, Appendix D,
Appendix E

04/22/04 ADOPT: 10202.1, 10203.1, 10203.2
AMEND: 10200, 10201, 10203, 10204

04/20/04 AMEND: 8403

04/19/04 AMEND: 20299, 20390

04/13/04 AMEND: 5044, 5046, 5049. and Table
S-1, Table S-1a, Table S-11, Table S-12,
Table S-13, and Table S-14.

04/01/04 AMEND: 3427

03/22/04 AMEND: 1529(g)

03/18/04 ADOPT: 5148

02/03/04 AMEND: 1712

02/02/04 ADOPT: 32017, 32018, 51096, 71010,
71026, 71027, 71030, 71035, 71040,
71050, 71055, 71060, 71070, 71080,
71090, 71095, 71100, 71110, 71115,

71120, 71130, 71140, 71200, 71210,
71225, 71230, 71235, 71300, 71310,
71320, 71330, 71340, 71680, 71685,
71700, 71

Title 9

05/04/04 REPEAL: 7336, 7337, 7338, 7339, 7341,
7342, 7343, 7344, 7345, 7346, 7347,
7347.1, 7347.2, 7348, 7349

04/29/04 AMEND: 1921, 1922

03/04/04 ADOPT: 7000.2, 7001.2, 7001.5, 7002.5,
7006, 7006.3, 7009.1, 7013.2, 7013.6,
7014, 7014.1, 7017.2, 7017.5, 7017.7,
7018.4, 7019.5, 7021.5, 7024.7, 7028.1,
7028.6, 7028.8, 7029.1, 7029.6, 7029.7,
7029.9, 7035, 7037, 7038, 7098, 7128,
7129, 7130, 7130.5, 7

Title 10

05/04/04 AMEND: 2698.30, 2698.31, 2698.32,
2698.33, 2698.34, 2698.35, 2698.36,
2698.37, 2698.38, 2698.39, 2698.40,
2698.41, 2698.42 REPEAL: 2698.40,
2698.41, 2698.42, 2698.43, 2698.44,
2698.45

04/29/04 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4,
2192.5, 2192.6, 2192.7, 2192.8, 2192.9,
2192.10, 2192.11, 2192.12

04/26/04 AMEND: 250.30

04/20/04 ADOPT: 2020, 2021 AMEND: 250.51

04/19/04 AMEND: 2498.6

04/13/04 AMEND: 260.102.14

03/25/04 ADOPT: 2695.40, 2695.41, 2695.42,
2695.43, 2695.44, 2695.45

03/15/04 ADOPT: 2361

03/08/04 ADOPT: 2194, 2194.1, 2194.2, 2194.3,
2194.4, 2194.5, 2194.6, 2194.7, 2194.8

03/01/04 ADOPT: 2698.102, 2698.600, 2698.602,
2698.604 AMEND: 2698.100, 2698.200,
2698.201, 2698.202, 2698.203, 2698.204,
2698.205, 2698.206, 2698.207 98.405,
2698.407, 2698.500, 2698.501,

01/16/04 AMEND: 260.102.14

Title 11

05/05/04 AMEND: 51.20

04/30/04 ADOPT: 51.21

04/30/04 ADOPT: 51.20

04/26/04 ADOPT: 999.15, 999.16, 999.17, 999.18,
999.19, 999.20, 999.21, 999.22, 999.23
AMEND: 999.10, 999.11, 999.12,
999.13, 999.14 REPEAL: Appendix A

Title 13

04/28/04 AMEND: 2415

04/09/04 REPEAL: 55.01, 55.02, 55.03, 55.04,
55.05, 55.06

03/01/04 ADOPT: 159.00

02/25/04 AMEND: 1900, 1960.1(k), 1961(a)(d), 1962

01/26/04 AMEND: 553.70

Title 14

05/11/04 ADOPT: 3808.5

05/10/04 AMEND: 851.6

05/10/04 ADOPT: 1665.1, 1665.2, 1665.3, 1665.4, 1665.5

05/10/04 ADOPT: 18660.5, 18660.6, 18660.7, 18660.8, 18660.9, 18660.10, 18660.11, 18660.12, 18660.13, 18660.14, 18660.15, 18660.16, 18660.17, 18660.18, 18660.19, 18660.20, 18660.21, 18660.22, 18660.23, 18660.24, 18660.25, 18660.30, 18660.31, 18660.32, 18660.33, 18

05/03/04 ADOPT: 8100, 8100.01, 8100.02, 8100.03, 8100.04, 8100.05, 8100.06, 8100.07, 8100.08, 8100.09, 8100.10, 8100.11, 8100.12, 8100.13

04/30/04 AMEND: 27.60, 27.67, 27.82, 28.28, 28.29, 28.55

04/29/04 AMEND: 27.60, 28.55

03/30/04 AMEND: 27.60, 27.65, 27.82, 28.27

03/29/04 AMEND: 150, 150.02, 150.03, 150.05

03/29/04 AMEND: 2000, 2200, 2305, 2310, 2320, 2401, 2500, 2501, 2518

03/08/04 AMEND: 3698, 3699

03/02/04 AMEND: 18464, 18465

02/24/04 AMEND: 1.17, 1.59, 2.10, 5.00, 5.50, 5.75, 7.00, 7.50, 8.00, 27.60, 29.15, 43, 195

02/09/04 AMEND: 630

02/02/04 AMEND: 112

01/23/04 AMEND: 27.60, 27.82, 27.83, 28.26, 28.27, 28.28, 28.29, 28.54, 28.55, 28.58

01/15/04 AMEND: 150.06(c)

01/12/04 ADOPT: 17946, 17949

Title 15

05/03/04 AMEND: 3043.5, 3043.6, 3044

05/03/04 AMEND: 3040, 3041, 3041.1, 3041.2, 3043.5

04/15/04 ADOPT: 2251.5 AMEND: 2041, 2057, 2072, 2073, 2074 REPEAL: 2050, 2051, 2052, 2054, 2055, 2056, 2701

03/03/04 AMEND: 2005

01/27/04 AMEND: 3426

01/09/04 ADOPT: 3000 AMEND: 3005, 3044, 3062, 3313, 3314, 3315, 3323, 3376

Title 16

05/04/04 AMEND: 1079.3

04/29/04 AMEND: 2030.2

04/22/04 ADOPT: 1399.330, 1399.349, 1399.352.5 AMEND: 1399.301, 1399.321, 1399.350,

1399.351, 1399.352, 1399.353, 1399.356, 1399.395 REPEAL: 1399.330, 1399.331, 1399.333

04/15/04 ADOPT: 1399.700, 1399.701, 1399.702, 1399.703, 1399.704, 1399.705, 1399.706, 1399.707 AMEND: 1399.650, 1399.700, 1399.705

04/12/04 AMEND: 2756

03/09/04 ADOPT: 4150, 4151, 4152, 4153, 4154, 4155

03/03/04 ADOPT: 1829 AMEND: 1816.2, 1816.3, 1877 REPEAL: 1815

01/23/04 ADOPT: 6.1, 7.1, 7.2, 8.1, 8.2, 51.1, 56.4, 59, 60, 61, 68.2, 68.3, 68.4, 68.5 AMEND: 5.1, 7, 8, 52, 70, 71, 88, 88.2, 98 REPEAL: 52.1

Title 17

04/29/04 AMEND: 54342, 57332

04/12/04 AMEND: 54001, 54010

02/05/04 ADOPT: 90800.75, 90800.9, 90804 AMEND: 90800.8, 90801, 90802, 90803

02/03/04 AMEND: 50604, 50608, 54326, 54370, 56003, 56082, 57540, 58510, 58671

01/23/04 AMEND: 54001, 54010

Title 18

05/06/04 AMEND: 6001

01/26/04 AMEND: 1591

01/21/04 ADOPT: 1621

Title 20

01/14/04 ADOPT: 14.7

Title 22

05/04/04 ADOPT: 110226, 110242, 110251, 110336, 110337, 110355, 110485, 110547, 110615, 116004, 116018, 116036, 116038, 116042, 116061, 116062, 116063, 116100, 116102, 116104, 116106, 116108, 116110, 116114, 116116, 116118, 116120, 116122, 116124, 116130, 116132,

05/03/04 AMEND: 123000

04/26/04 AMEND: 90417

04/26/04 ADOPT: 51008.1 AMEND: 51104, 51520, 51521

04/22/04 AMEND: 51516.1

04/12/04 AMEND: 12000

04/12/04 AMEND: 12705

04/02/04 ADOPT: 119003, 119015, 119019, 119045, 119069, 119076, 119191

03/26/04 AMEND: 66250.1, 66250.2, 66260.1, 66260.2, 66260.3, 66260.4, 66260.5, 66260.1, 66260.2, 66260.3, 66260.4, 66260.5

03/23/04 AMEND: 5200

03/22/04 AMEND: 66260.10

03/08/04 AMEND: 97232

02/26/04 AMEND: 66260.10, 66268.7, 66268.8,
66268.42
02/24/04 ADOPT: 51008.1 AMEND: 51104,
51520, 51521
02/03/04 ADOPT: 51200.01 AMEND: 51000.4,
51000.30, 51000.45, 51000.50, 51000.55,
51200, 51454
01/14/04 ADOPT: 51315 REPEAL: 51515

Title 22, MPP

04/26/04 ADOPT: 86000, 86001, 86005, 86009,
86010, 86018, 86020, 86022, 86023,
86024, 86028, 86030.5, 86031.5, 86036,
86044, 86044.5, 86045, 86061, 86064,
86065, 86065.2, 86065.3, 86065.4,
86065.5, 86066, 86068.1, 86068.2,
86068.3, 86068.4, 86070, 86072, 86073,
8
03/11/04 ADOPT: 102416.1 AMEND: 80001,
80019, 80019.1, 80019.2, 80054, 80061,
80065, 80066, 87101, 87219, 87219.1,
87454, 87565, 87566, 87801, 87819,
81819.1, 87854, 87861, 87865, 87866,
101152, 101170, 101170.1, 101170.2,
101195, 101212, 101216, 101217,
102352,

Title 23

05/06/04 ADOPT: 3939.8
04/08/04 ADOPT: 2631.1, 2638, 2715 AMEND:
2611, 2630, 2635, 2636, 2636.1, 2637,
2641, 2712
04/02/04 REPEAL: 595
03/24/04 ADOPT: 3956
02/27/04 ADOPT: 3939.7

02/27/04 ADOPT: 3939.6
01/30/04 ADOPT: 3939.5
01/30/04 ADOPT: 3939.4
01/26/04 ADOPT: 3717

Title 25

03/30/04 AMEND: 19200, 19205
03/22/04 AMEND: 7552

Title 27

04/01/04 ADOPT: 10050, 10051, 10052, 10053,
10054, 10055, 10056

Title 28

05/05/04 AMEND: 1005
02/24/04 AMEND: 1000

Title MPP

04/29/04 ADOPT: 30-501, 30-502, 30-503, 30-
504, 30-505, 30-506, 30-507, 30-900, 30-
901, 30-902, 30-903, 30-904, 30-905,
30-906, 30-907, 30-908, 30-909, 30-910,
30-911, 30-912, 30-913, 30-914, 30-915,
30-916, 30-917, 30-918, 30-919, 30-920,
31-236 AMEND: 11-400t,
04/22/04 AMEND: 63-102, 63-504
04/19/04 AMEND: 63-300, 63-504
04/15/04 AMEND: 42-710.66, 42-711.512, .61
02/26/04 ADOPT: 63-502.371 AMEND: 63-
502.371, 63-502.372, 63-502.373, 63-
502.374, 63-502.375, 63-502.376
REPEAL: 63-502.371(c)
02/25/04 AMEND: 63-503, 63-504, 63-505
02/02/04 ADOPT: 47-120, 47-430 AMEND: 40-
107, 40-131, 40-181, 42-711, 47-301
01/16/04 AMEND: 63-300, 63-407, 63-408, 63-
410, 63-411, 63-503, 63-505

